# EXCLUSIVE NEGOTIATION AGREEMENT

This Exclusive Negotiation Agreement ("**Agreement**") is entered into as of the ___th day of May, 2026 ("**Effective Date**") by and between the City of Santa Clara, a California chartered municipal corporation ("**City**") and Agnews VOP, LLC, a California limited liability company ("**Developer**" or "**VOP**"), on the terms and provisions set forth below.

## RECITALS

A. Oracle Corporation ("**Oracle**") is the owner of two parcels of real property in the City of Santa Clara (APNs 097-08-114 and 097-08-058), as shown on the map attached to this Agreement as **Exhibit A-1** ("**Oracle Campus**") and incorporated by this reference. Following completion of a lot line adjustment between the two parcels within the Oracle Campus and pursuant to the terms of an agreement between Oracle and the Developer, Oracle intends to sell to Developer a portion of the Oracle Campus (APN: 097-08-058), as modified by such lot line adjustment ("**Agnews Parcel**"), and retain the remaining portion of the Oracle Campus (APN 097-08-114), as modified by such lot line adjustment ("**Oracle Retained Parcel**"), for its continued use and ownership.

B. City is the owner of certain real property in the City of Santa Clara (APN 24-25-074) that operates as the City's current City Hall, as shown on the map attached to this Agreement as **Exhibit A-3** ("**City Exchange Parcel**"), and incorporated by reference herein.

C. On September 20, 2023, Developer submitted a preliminary application, and on September 25, 2023, paid the associated fees for an application to develop a housing development project pursuant to the provisions of Government Code Section 65589.5(d)(5) on the Agnews Parcel (the "**Builder's Remedy Project**"). The City has indicated its position that Government Code Section 65589.5(d)(5) does not apply to the Builder's Remedy Project (the "**Builder's Remedy Dispute**"). The parties entered that certain Tolling Agreement (as defined in Section 16, below) to engage in productive discussions to resolve the Builder's Remedy Dispute.

D. In furtherance of the effort to settle the parties' dispute with respect to the Builder's Remedy Project, the City and Developer, after preliminary feasibility discussions, now intend to negotiate the potential disposition of a portion of the Agnews Parcel ("**VOP Exchange Parcel**") to the City in exchange for the City Exchange Parcel, with the Developer retaining the remaining portion of the Agnews Parcel ("**VOP Retained Parcel**"), as shown on the map attached to this Agreement as **Exhibit A-2**, and incorporated by this reference (collectively, "**Land Swap**"). The VOP Retained Parcel and the City Exchange Parcel are referred to collectively as the "**Residential Properties**."

E. With respect to the Residential Properties, Developer has proposed constructing two residential developments consisting of a mix of residential uses (which may include multifamily units, townhomes, and single-family homes, and as shall be more particularly described in VOP's formal entitlement applications) on the City Exchange Parcel ("**Warburton Residential Project**") and the VOP Retained Parcel ("**Network Circle Residential Project**")

(collectively, the "**VOP Residential Projects**"). The Developer also continues to propose, and intends to proceed with, the Builder's Remedy Project in the event that for any reason the proposed Land Swap is unsuccessful; however, the Developer acknowledges that the Builder's Remedy Dispute is ongoing and the City has not conceded that Government Code Section 65589.5(d)(5) applies to the Builder's Remedy Project. While reserving all rights (which include, without limitation, all legally applicable rights to deny, modify, or condition the Builder's Remedy Project) the City will continue to process the Builder's Remedy Project as necessary and appropriate while the parties negotiate the Land Swap so that the Developer is not detrimentally delayed in the event of termination. For the purposes of clarity, nothing in this Agreement is intended to affect or waive either parties' rights with respect to the Builder's Remedy Project.

F. With respect to the VOP Exchange Parcel, City is considering that certain improvements could be made to the buildings thereon that will allow the City to use the VOP Exchange Parcel for City's intended use as its City Hall ("**City Hall Improvement Project**"). The Land Swap, the VOP Residential Projects and the City Hall Improvement Project shall be collectively referred to herein as the "**Project**".

G. Developer will obtain all discretionary entitlements and approvals necessary for the VOP Residential Projects ("**Residential Project Approvals**") and the General Plan and zoning amendments necessary for the City Hall Improvement Project (together, the "**Project Approvals**"), from the City in its regulatory capacity and the City shall process the Project Approvals expeditiously and in good faith, including compliance with the California Environmental Quality Act ("**CEQA**"), prior to closing of the Land Swap. The City shall be responsible for all analysis and preparation of improvement plans related to the City Hall Improvement Project. The Parties acknowledge that the Project Approvals are a necessary pre-condition and are material to the Land Swap.

H. Prior to the execution of this Agreement, the City Council of the City of Santa Clara ("**City Council**") declared the City Exchange Parcel to be "exempt surplus land" as described in Government Code Section 54221. The City Council adopted written findings that the City Exchange Parcel is exempt surplus land pursuant to Government Code Section 54221(f)(1)(C), because the City Exchange Parcel would be exchanged for the VOP Exchange Parcel, which is property that is necessary for the City's use. The City shall seek the California Department of Housing and Community ("**HCD**")'s determination of validity regarding the City Council's declaration and findings. The parties shall not be under any obligation to close on the Land Swap unless and until the City Council's exemption determination has been confirmed by HCD.

I. The purpose of this Agreement is to establish procedures and standards for the processing of the Project Approvals and the negotiation by City and Developer of: (i) a land exchange agreement ("**Land Exchange Agreement**") pursuant to which Developer and City would complete the Land Swap, (ii) the form of property conveyance documents, and (iii) a lease to be attached to the Land Exchange Agreement as an exhibit, pursuant to which City would lease back from Developer the City Exchange Parcel ("**City Lease**") for approximately a two-year term (with the potential for extensions on terms to be negotiated by the parties) commencing upon closing of the Land Swap; and any other ancillary agreements or matters related to the

Land Swap. Based on the Milestone Schedule (defined below), it is anticipated that the closing would occur within approximately 30 days after execution of the Land Exchange Agreement.

J. As more fully set forth in Section 11, Developer acknowledges and agrees that this Agreement on its own does not grant Developer the right to carry out the Land Swap or develop the VOP Residential Projects, nor does it obligate City to complete any activities, except for the preliminary analysis, negotiations and processing contemplated and specified by this Agreement. The City acknowledges and agrees that this Agreement does not affect Developer's Builder's Remedy Project nor operate as any form of agreement, waiver or relinquishment of Developer's rights thereto. Developer further acknowledges and agrees that this Agreement does not affect the City's position with respect to the Builder's Remedy Project nor operate as any form of agreement, waiver or relinquishment of City's position in the Builder's Remedy Dispute.

K. The parties acknowledge and agree that time is of the essence with respect to all aspects of this Agreement.

## AGREEMENT

**NOW, THEREFORE**, in consideration of the foregoing recitals, which are incorporated herein by reference, and the mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### I. EXCLUSIVE NEGOTIATIONS RIGHT

1. Good Faith Negotiations. During the Negotiation Period (defined in Section 2), City and Developer shall negotiate diligently and in good faith the terms and conditions of the Land Exchange Agreement and other agreements related to the Land Swap, including the City Lease, and the development of the Project, draft the related documents, reports and resolutions and ordinances, and provide all required legal notices and hold necessary public hearings for consideration by the City Council. Further, the parties shall use good faith efforts to accomplish the respective tasks outlined herein to facilitate the negotiation of the Land Swap in a logical, efficient and cost-effective manner. The parties shall endeavor to accomplish the tasks within the timeframe described in the "Milestone Schedule" shown in **Exhibit B** attached to this Agreement. Because time is of the essence, the parties' failure to meet the tasks in the Milestone Schedule provides a basis for a no-fault termination of this Agreement by either party.

2. Negotiation Period; Termination. Unless terminated sooner as provided below or elsewhere in this Agreement, the term of this Agreement shall commence on the date of this Agreement and initially expire on June 1, 2027 ("**Negotiation Period**"). During the Negotiation Period, City and Developer shall have regular meetings to facilitate the planning and negotiations contemplated herein. If upon expiration of the Negotiation Period, City and Developer have not executed a mutually acceptable Land Exchange Agreement and any required ancillary documents, this Agreement shall automatically terminate, unless mutually extended in writing by City and Developer in each party's sole and absolute discretion prior to expiration of the Negotiation Period. Either party may terminate this Agreement upon thirty (30) days written notice. If at any time during the term of this Agreement, the City Council votes affirmatively to

disapprove or reject the Land Exchange or the VOP Residential Projects, this Agreement shall automatically terminate without further notice or action of the parties.

3. Exclusive Negotiations. During the Negotiation Period, City shall not negotiate with any entity other than Developer with respect to the City Exchange Parcel or VOP Exchange Parcel, and Developer shall not negotiate with any entity other than City and Oracle with respect to the VOP Exchange Parcel, the VOP Retained Parcel, or the City Exchange Parcel, and neither party shall solicit or entertain bids or proposals to do so. This Section 3 is a material term of this Agreement and a breach of this term by either party shall give right to a default and potential remedies under Section 14. For the purposes of clarity, the City acknowledges that VOP is under contract with Oracle with respect to the Agnews Parcel, including the VOP Exchange Parcel, and as part of the City's obligation to exclusively negotiate with VOP during the Term of this Agreement, the City agrees that it shall not negotiate directly with Oracle regarding acquisition of the VOP Exchange Parcel. For purposes of this section "negotiate directly" means engage in substantive communication between parties that are authorized to negotiate on the City's behalf containing proposed terms for the City acquiring the VOP Exchange Parcel for City purposes, directly and without involvement of Developer. The City shall retain all rights in its regulatory and proprietary capacity to communicate with Oracle on any or all other matters.

4. City Costs Reimbursement. Developer acknowledges that in negotiating this Project, City anticipates expending substantial resources on the Project and the performance of the tasks described in, contemplated by and related to this Agreement, and that City has not budgeted for this effort. Accordingly, in order for this Agreement to continue in effect, substantially concurrently with the execution of this Agreement (but in no event longer that five (5) days after executing this Agreement), Developer and City shall enter into a separate agreement under which the Developer agrees to reimburse the City for City's costs and expenses related to City's work on the Project beginning on December 30, 2025 and continuing through the term of this Agreement ("**Project Costs**") subject to the terms and conditions set forth in the Form of Reimbursement Agreement attached hereto as **Exhibit D**, and incorporated herein by this reference (the "**Reimbursement Agreement**"). If Developer fails to timely execute the Reimbursement Agreement or fails to maintain a sufficient balance to reimburse the City for Project Costs, or if the Reimbursement Agreement is terminated, then this Agreement shall automatically terminate.

## II. NEGOTIATION TASKS

5. Overview. To facilitate negotiation of the Land Exchange Agreement and related documents and the carrying out of tasks related to the Project, Developer and City shall use reasonable good faith efforts to accomplish the tasks set forth in this Article II in a timeframe that will support negotiation, City Council approval and execution of a mutually acceptable Land Exchange Agreement and related documents prior to the expiration of the Negotiation Period and that facilitates a closing on the Land Swap pursuant to the Milestone Schedule.

The issues to be addressed in the negotiations include, without limitation, the conditions precedent to the acquisition and exchange of land pursuant to the Land Swap (including, without limitation, satisfactory title review, site inspections, CEQA review, issuance and finality of all approvals for the Project); mutually-approved appraisal instructions and procedures to determine the values of

the VOP Exchange Parcel and the City Exchange Parcel; the terms and conditions of the City Lease applicable to the City Exchange Parcel; respective responsibility for any physical and title conditions of the VOP Exchange Parcel and the City Exchange Parcel and remediation of any adverse conditions related thereto; respective responsibility for any improvements on the VOP Exchange Parcel that will completed prior to the Land Swap; the portions of the City Hall Improvement Project that will be completed by the City after the Land Swap but in advance of use and occupancy by City of the VOP Exchange Parcel; interim uses that may be allowed and/or prohibited on the VOP Retained Parcel and/or the City Exchange Parcel prior to commencement of construction of the VOP Residential Projects (in the event there is an extended period before commencement of construction); and development of a schedule of performance for completion of the City Hall Improvement Project to facilitate relocation to the VOP Exchange Parcel to allow construction of the Warburton Residential Project.

6. Project Scope and Application. At the time specified on the Milestone Schedule, Developer shall prepare and submit to City: (a) a scope of development describing the proposed location, land uses and other details reasonably requested by City regarding the VOP Residential Projects, and the City shall prepare a scope of development describing in reasonable detail the improvements that will make up the City Hall Improvement Project to inform environmental review of the Project.

(a) VOP Applications. At the time specified on the Milestone Schedule, Developer shall prepare and submit to City proposed formal entitlement applications for the VOP Residential Projects, including General Plan and zoning amendment applications for the City Hall Improvement Project. The City will cooperate with the Developer to identify the most appropriate and preferred land use designations for the VOP Residential Projects and the City Hall Improvement Project.

(b) Developer Cooperation with City Hall Improvement Project. Developer acknowledges and agrees that the VOP Exchange Parcel must be made suitable for City's use and occupancy following the Land Swap but prior to the City taking occupancy of the City Exchange Parcel and that this process, timing, allocation of responsibility and other terms will be established in the City Lease. Developer agrees to cooperate with and work in good faith to coordinate its construction and site planning efforts for the VOP Retained Parcel with the City to assist the City in understanding and planning for the relationship between the VOP Residential Project on the VOP Retained Parcel and the City Hall Improvement Project (e.g. site access, utilities and construction staging).

7. Community Outreach and Engagement. The Developer will comply with the City's standard community engagement process with respect to the Residential Project applications. In addition, Developer will contribute funding for a community engagement consultant pursuant to the terms of the Reimbursement Agreement.

8. Due Diligence. During the initial six (6) months of the Negotiation Period ("**Due Diligence Period**"), Developer and City will complete initial work and studies on the City Exchange Parcel and the VOP Exchange Parcel and shall endeavor to come to initial material financial business terms, Project feasibility determinations and schedule, and key terms for the Exchange Agreement and City Lease and make a coordinated plan to draft the necessary

documents and agreements thereafter. The parties shall conduct the following due diligence activities, among others:

(a) City Exchange Parcel; Adequacy Determination by Developer. Developer shall determine whether the City Exchange Parcel appears suitable for development of the Warburton Project, taking into account the geotechnical and soils conditions, the presence or absence of toxic or other hazardous materials, the zoning of the City Exchange Parcel, the massing of the proposed improvements and the parking requirements imposed on projects of this type and the other environmental and regulatory factors that Developer deems relevant. If, in Developer's judgment based on such investigations and analyses, the City Exchange Parcel is not suitable for development, Developer may notify City in writing prior to the expiration of the Due Diligence Period of its determination. Upon such timely notification by Developer, this Agreement shall be terminated without further action of either party, and thereafter neither party shall have any further duties, obligations, rights, or liabilities under this Agreement, except as set forth in Section 14 and Section 16. Such termination shall be a no-fault termination for purposes of the Reimbursement Agreement.

(b) VOP Exchange Parcel; Adequacy Determination by City. City shall determine whether the VOP Exchange Parcel appears suitable for the contemplated development and use by City, taking into account the geotechnical and soils conditions, the presence or absence of toxic or other hazardous materials, the zoning, the massing of the proposed improvements and the parking requirements imposed on properties of this type and the other environmental and regulatory factors that City deems relevant. City will also study and determine the feasibility of the City Lease, the feasibility of the relocation of public use facilities that currently operate within the City Exchange Parcel, the improvements that must be completed as part of the City Hall Improvement Project prior to use and occupancy by City and any other improvements that must be completed as part of the City Hall Improvement Project but which can occur after City begins using and occupying the building, and the projected costs of any leasing, relocation of existing uses and/or the overall City Hall Improvement Project in order for City to use and occupy the parcel it requires. If, in City's sole discretion, the VOP Exchange Parcel is not suitable for the contemplated development and use by City, City may notify Developer in writing prior to the expiration of the Due Diligence Period of its determination. Upon such timely notification by City, this Agreement shall be terminated without further action of either party, and thereafter neither party shall have any further duties, obligations, rights, or liabilities under this Agreement, except as set forth in Section 14 and Section 16. Such termination shall be a no-fault termination for purposes of the Reimbursement Agreement.

(c) Objections to Title. Promptly following the execution of this Agreement, Developer shall cause a title company mutually approved by Developer and City to issue to Developer and City a Preliminary Title Report ("**Reports**") on the Agnews Parcel and the City Exchange Parcel. If either party objects to any exception appearing on the Reports or should any title exception arise after the date of the Reports, either party may object to such exception provided such objection is made to the other party in writing on or before 5:00PM on or before the sixtieth ($60^{th}$) day after the Effective Date. If either party objects to any exception to title, the other party, within fifteen (15) days of receipt of such objection shall notify the objecting party in writing whether it elects to (i) cause

the exception to be removed of record, (ii) obtain a commitment from Title Company for an appropriate endorsement to the policy of title insurance to be issued to the objecting party insuring against the objectionable exception (this shall not apply to the City Exchange Property except to the extent that any proposed endorsement is acceptable to Developer, in Developer's sole discretion), or (iii) terminate this Agreement effective as of the expiration of the Due Diligence Period unless the objecting party elects in writing, prior to the expiration of the Due Diligence Period, to take title subject to such exception or the parties agree to address such objection in the terms of the Land Exchange Agreement. If the other party fails to provide notice of its election to proceed under clause (i) through (iii) above within such fifteen-day period, then the other party shall be deemed to have given notice of its election of clause (iii) above. If the objecting party fails to terminate this Agreement during the Due Diligence Period, then the objecting party shall be deemed to have accepted and approved the other party's election (or deemed election) relative to the objectionable title matter except if the parties agree to address such objection in the terms of the Land Exchange Agreement. If this Agreement is terminated pursuant to this subsection (c), neither party shall thereafter have any obligations to or rights against the other hereunder, except as set forth in Section 14 and Section 16, and such termination shall be a no-fault termination under the Reimbursement Agreement. If a party fails to provide any notification to the other party regarding any title objections prior to expiration of the time period set forth herein, the condition set forth in this subsection (c) shall be deemed satisfied as to such non-objecting party and this Agreement shall continue in effect, except if the parties agree to address such objection in the terms of the Land Exchange Agreement.

(d) Site Access. Developer and City shall enter into a separate mutually acceptable agreement to provide Developer and its consultants with a right of entry to access, examine and conduct tests on the City Exchange Parcel during the Due Diligence Period subject to the terms and conditions set forth in the Form of Right of Entry attached hereto as **Exhibit C**, and incorporated herein by this reference. Developer shall use commercially reasonable efforts to enter into a separate agreement with Oracle to grant Developer, City and their respective consultants a right of entry on the VOP Exchange Parcel to access, examine and conduct tests on the VOP Exchange Parcel during the Due Diligence Period subject to the terms and conditions set forth in the Form of Right of Entry. Developer's inability to obtain Oracle approval of the City's right of entry shall not be a default under this Agreement, but such inability shall be a no-fault basis for the City to terminate this Agreement if such approval is not provided within 30 days after the Effective Date.

(e) Reports. Within 30 days after the execution of this Agreement, Developer shall provide City with copies of all reports and studies but excluding confidential or proprietary information, then in its possession or under its reasonable control and/or prepared or commissioned by Developer with respect to this Agreement, the Land Swap and the Project, promptly upon completion (collectively, "**Due Diligence Documents**"). Within 30 days after the execution of this Agreement, City shall provide Developer with copies of all Due Diligence Documents then in its possession or under its reasonable control and/or prepared or commissioned by City with respect to the VOP Exchange Parcel, this Agreement, the Land Swap and the Project promptly upon completion.

(f) Financial Terms and Schedule. The parties will continue to negotiate the key financial terms of the Land Swap and track the Milestone Schedule to facilitate timely closing. If at any time, either party determines in their reasonable business judgment that the parties will not be able to come to mutually acceptable financial terms or meet the Milestone Schedule, such party may provide written notice to the other party to terminate this Agreement.

While desiring to preserve its rights with respect to treatment of certain information on a confidential or proprietary basis, Developer acknowledges that City will need sufficient detailed information about the proposed Project to make informed decisions about the content and approval of the Land Exchange Agreement. At no cost or expense to the City, and following the terms and procedures set forth in the Tolling Agreement, City will work with Developer to maintain the confidentiality of proprietary information subject to the requirements imposed on City by the Public Records Act (Government Code Sections 6253 *et seq*.). Developer acknowledges that City may share information provided by Developer of a financial and potential proprietary nature with third party consultants and City Council members as part of the negotiation and decision-making process. In the event that City or any of its representatives is legally required or requested to disclose all or any portion of the Developer's confidential information pursuant to a subpoena, court order, civil investigative demand, request under the California Public Records Act or similar judicial process or similar request issued by a court of competent jurisdiction or by a governmental or regulatory authority, City shall promptly notify Developer in writing by email or facsimile and certified mail, of the existence, terms and circumstances surrounding such request, so that Developer may elect to approve disclosure or seek a protective order or other appropriate remedy at Developer's sole cost and expense. If Developer fails to notify the City of Developer's election within five (5) business days after receiving notice from the City, Developer shall be deemed to have approved disclosure of such material.

9. Environmental Review and Project Approvals. At the times provided in the Milestone Schedule, City shall prepare or cause to be prepared any environmental documentation required by CEQA prior to consideration or approval of the Land Exchange Agreement, Project Approvals and the City Lease and the Builder's Remedy Project; provided that nothing in this Agreement shall be construed to compel City to approve or make any particular findings with respect to such environmental documentation. Developer shall promptly provide such information as may be required to enable City to prepare or cause preparation and consideration of any CEQA-required document and shall otherwise generally cooperate with City to complete this task. Developer shall embark upon and diligently pursue all Project Approvals for the Project as supported by its required CEQA documentation and with the cooperation of the City with respect to processing given the material nature of the Project Approvals to the Land Swap. Developer shall be responsible for all costs associated with the preparation of the required CEQA documentation and the processing and consideration by the City of the Project Approvals. It is understood by the parties that the CEQA documentation is likely the controlling factor in meeting the schedule, and time is of the essence in all aspects of the CEQA process and processing of the Project Approvals. In the event of termination of this ENA, the City shall continue to process the CEQA documentation for the Builder's Remedy Project in good faith. This Section 9 shall survive termination of the ENA.

10. Progress Reports. From time to time as reasonably agreed upon by the parties, each party shall make oral or written progress reports advising the other party on studies being made and matters being evaluated by the reporting party with respect to this Agreement and the Project.

## III. GENERAL PROVISIONS

11. Limitation on Effect of Agreement. This Agreement shall not obligate either City or Developer to enter into a Land Exchange Agreement, any particular Land Exchange Agreement and/or any related documents. By execution of this Agreement, City is not committing itself to or agreeing to undertake acquisition, disposition or exercise of control over any property. Execution of this Agreement by City is merely an agreement to conduct a period of exclusive negotiations in accordance with the terms and conditions hereof reserving for subsequent City and City Council action the final discretion and approval regarding the execution of a Land Exchange Agreement, related documents and all proceedings and decisions in connection therewith. Any Land Exchange Agreement and related documents resulting from negotiations pursuant to this Agreement shall become effective only if and after such Land Exchange Agreement and related documents has been considered and approved by City.

12. Notices. Formal notices, demands and communications between City and Developer shall be sufficiently given if, and shall not be deemed given unless, dispatched by email and by certified mail postage prepaid return receipt requested or sent by express delivery or overnight courier service to the office of the parties shown as follows or such other address as the parties may designate in writing from time to time:

City: City of Santa Clara
1500 Warburton Avenue
Santa Clara CA 95050
Attention: City Manager
Email: manager@santaclaraca.gov

With copies to:

City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050
Attention: City Attorney
Email: cityattorney@santaclaraca.gov

Burke, Williams & Sorenson, LLP
1 California Street, Suite 3050
San Francisco, CA 94111
Attention: Anna Shimko
Email: AShimko@bwslaw.com

Developer: Agnews VOP, LLC
c/o Valley Oak Partners GP, LLC
734 The Alameda
San Jose, CA 95126
Attention: Doug Rich
Email: doug@valleyoakpartners.com

With copy to: Holland & Knight, LLP
560 Mission St. Suite 1900
San Francisco, CA 94105
Attention: Tamsen Plume
Email: tamsen.plume@hklaw.com

Such written notices, demands and communications shall be effective on the date shown on the delivery receipt as the date delivered or the date on which delivery was refused.

13. No Commissions. City shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or any Land Exchange Agreement that may result from this Agreement. City represents that it has engaged no broker agent or finder in connection with this transaction and Developer shall indemnify, defend and hold City harmless from any claims by any broker, agent, or finder retained by Developer. This Section 13 shall survive termination of this Agreement.

14. Defaults and Remedies. Failure by either party to comply with the exclusive negotiation provisions of Section 3 of this Agreement shall constitute an event of default hereunder. The non-defaulting party shall give written notice of a default to the defaulting party specifying the nature of the default and the required action to cure the default. If a default remains uncured thirty (30) days after receipt by the defaulting party of such notice, the non-defaulting party may exercise the remedies set forth below in this Section 14.

In the event of an uncured default by City, Developer's exclusive remedies shall be (1) to terminate this Agreement and the Reimbursement Agreement and (2) if, and only if, the default is related to the City default under Section 3 with respect to Oracle, all available rights and remedies under law and equity, provided, however, that any damages (including direct, indirect, consequential, or punitive damages) shall be limited to the amount of Eligible Costs (as such term is defined in the Reimbursement Agreement) paid to the City by Developer.

Following such termination, neither party shall have any further right, remedy or obligation under this Agreement, provided, however, that Developer’s indemnification obligation pursuant to Section 13 shall survive such termination.

In the event of an uncured default by Developer, City's sole remedy shall be to terminate this Agreement and collect funds pursuant to the Reimbursement Agreement’s terms. Following such termination, neither party shall have any right, remedy or obligation under this Agreement, provided, however, that Developer's indemnification obligation pursuant to Section 13 shall survive such termination.

Except as expressly provided above, neither party shall have any liability to the other for damages or otherwise for any default, nor shall either party have any other claims with respect to performance under this Agreement. Each party specifically waives and releases any such rights or claims they may otherwise have at law or in equity.

15. Assignment. Neither party shall assign any of its rights or obligations under this Agreement without the other party's express prior written consent, which the responding party may grant, condition, or withhold in its sole and absolute discretion.

16. Tolling of Builder's Remedy Dispute. Pursuant to that certain Tolling Agreement by and between Developer and City dated as of October 9, 2024, as extended by that certain First Amendment to Tolling Agreement by and between the parties and dated as of December 17, 2024, that certain Second Amendment to Tolling Agreement by and between the parties and dated as of March 28, 2025, that certain Third Amendment to Tolling Agreement by and between the parties and dated as of June 6, 2025, that certain Fourth Amendment to Tolling Agreement by and between the parties and dated as of August 28, 2025, that certain Fifth Amendment to Tolling Agreement by and between the parties and dated as of November 15, 2025, and that certain Sixth Amendment to Tolling Agreement by and between the parties and dated as of February 16, 2026 (collectively, the "**Tolling Agreement**"), the parties agreed that the running of any litigation filing and/or service deadlines related to a dispute under Section 65589.5(d)(5) of the California Government Code shall be tolled and suspended in their entirety until June 1, 2026, or earlier cancellation as provided in the Tolling Agreement ("**Tolling Period**"). Concurrently with execution of this Agreement, the Tolling Agreement and Tolling Period shall be automatically extended, without further action being required, through the term of this Agreement, plus an additional thirty (30) days thereafter. If the City Council takes action to approve the Project, the Tolling Agreement and Tolling Period shall automatically be extended, without further action being required, through the period during which any legal challenge or referendum of such City Council action can be filed without any such challenges or referenda being filed; or, if such challenge or referendum is filed, through the final resolution thereof, including and expiration of any appeal periods.

17. Attorneys' Fees. The prevailing party in any action to enforce this Agreement shall be entitled to recover attorney's fees and costs from the other party.

18. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

19. Incorporation of Recitals. The parties acknowledge the truth of the foregoing Recitals, which by this reference are incorporated into and be deemed operative provisions of this Agreement.

20. Entire Agreement. This Agreement constitutes the entire agreement of the parties regarding the subject matters of this Agreement.

21. Counterparts. This Agreement may be executed in counterparts, including pursuant to an electronic signature method, such as DocuSign, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

22. Effective Date. The date of this Agreement shall be as stated in the first paragraph of this Agreement.

[*Signatures on following page*]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set opposite their signatures.

DEVELOPER:

VOP AGNEWS, LLC

By: _____
Name: _____
Title: Authorized Signatory

CITY:

CITY OF SANTA CLARA, a municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

**EXHIBIT A-1**

**ORACLE CAMPUS**

**EXHIBIT A-2**

**AGNEWS PARCEL**

**EXHIBIT A-3**

**CITY EXCHANGE PARCEL**

## EXHIBIT B

## MILESTONE SCHEDULE

The parties shall endeavor in good faith to accomplish the tasks listed below within the timeframes identified. The parties agree and acknowledge that failure to meet any of the projected timeframes below shall not constitute a default by either party.

| Task / Milestone | Projected Timeframe |
|---|---|
| VOP submits scope and entitlement applications for VOP Residential Projects and City Hall Improvement Project (General Plan amendment/rezoning only) | June 15, 2026 |
| City prepares scope for City Hall Improvement Project | July 15, 2026 |
| City releases Notice of Preparation or otherwise commences CEQA process, as applicable | August 28, 2026 |
| Due Diligence period ends | November 30, 2026 |
| City submits Surplus Land Act findings to HCD | February 15, 2026 |
| Draft EIR/CEQA document released for public review | January 5, 2027 |
| Parties prepare draft Land Exchange Agreement | February 1, 2027 |
| CEQA Public Comment Period ends | February 20, 2027 |
| Final EIR and Responses to Comments document released | March 16, 2027 |
| Planning Commission hearing for recommendations on CEQA documents, Project Approvals and Exchange Agreement | March 24, 2027 |
| City Council hearing and action on CEQA documents, Project Approvals, and Exchange Agreement | April 6, 2027 |
| City Council Second Reading on applicable Project Approvals | April 20, 2027 |
| If CEQA documents, Project Approvals and Exchange Agreement approved, close Land Swap transaction | May 28, 2027 |

**EXHIBIT C**

**FORM OF RIGHT OF ENTRY AGREEMENT**
**CITY EXCHANGE PARCEL – DUE DILIGENCE**

This Right of Entry Agreement ("**ROE**") is entered into as of the ___th day of _____, 20__, by and between the City of Santa Clara, a municipal corporation ("**City**"), and Agnews VOP, LLC, a California limited liability company ("**Developer**"), with reference to the following:

**Recitals**

A. City is owner of that certain real property in the City of Santa Clara, California (APN 24-25-074), as more particularly shown on the map attached hereto depicted as **Exhibit A** ("**City Exchange Parcel**").

B. City and Developer have entered into that certain Exclusive Negotiation Agreement dated as of the ___th day of May, 2026 ("**Agreement**"), pursuant to which the parties are negotiating a Land Exchange Agreement (as defined in the Agreement), including related ancillary documents, for the exchange of certain real property, including the City Exchange Parcel.

C. Section 8 of the Agreement provides for certain due diligence activities to be conducted during the Due Diligence Period (as defined in the Agreement), including Developer's investigation of the City Exchange Parcel to determine its suitability for development of the Project.

D. City is willing to grant Developer a limited right of entry onto the City Exchange Parcel solely for the purpose of conducting the due diligence investigations described in Section 8 of the Agreement, subject to the terms, conditions, restrictions, and protections set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, and the mutual covenants and agreements contained herein, City and Developer agree as follows:

1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.

**2.** Grant of Right of Entry. Subject to the terms and conditions of this ROE, City hereby grants to Developer and its officers, directors, employees, agents, contractors, subcontractors, engineers, architects, environmental consultants, geotechnical consultants, surveyors, and other professional consultants retained by or on behalf of Developer (collectively, "**Authorized Representatives**") a limited, non-exclusive, revocable right of entry upon and across the City Exchange Parcel solely for the purpose of performing the those certain due diligence investigations, inspections, tests, surveys, studies, and analyses described in Section 3 of this ROE (collectively, "**Authorized Activities**") during the Entry Period (defined below).

This ROE does not convey to Developer or any Authorized Representative any possessory interest, leasehold interest, easement, license coupled with an interest, or other property right or interest in or to the City Exchange Parcel. The right of entry granted herein is a mere license, revocable at will by City as provided in Section 10 of this ROE. Developer acknowledges and agrees that the City Exchange Parcel is currently occupied and used by City for municipal and

public purposes, and Developer shall conduct all Authorized Activities in a manner that does not unreasonably interfere with, disrupt, or impair City's continued use, operations, and occupancy of the City Exchange Parcel.

**3.** Entry Period. The rights granted to Developer herein shall commence on the date of this ROE and expire on the termination of the Agreement ("**Entry Period**"); provided, however, that City may terminate the Entry Period at any time upon written notice to Developer if the Agreement is terminated in accordance with its terms.

**4.** Scope of Authorized Activities.

(a) Developer and its Authorized Representatives may enter the City Exchange Parcel during the Entry Period to perform the following Authorized Activities, which are consistent with the due diligence investigations contemplated by Section 8 of the Agreement:

(i) Preliminary analysis of toxic and hazardous waste conditions throughout the City Exchange Parcel;
(ii) Review of site historical soils and subsurface data and information;
(iii) Preliminary analysis of geotechnical conditions of site surface and subsurface;
(iv) Preliminary analysis of site issues relative to endangered species and sensitive habitat;
(v) Preliminary assessment of traffic and parking issues/constraints that may affect site development;
(vi) Assessment of major public and private utility capacities and connections for providing service to the Project;
(vii) Assessment of site drainage and waterway issues that may affect site development;
(viii) Review of any site easements or other use restrictions that may affect site development;
(ix) Review of title as it may affect site development and financing of development; and
(x) such other inspections, tests, and investigations to be performed in accordance with Section 8 of the Agreement and subject to the prior written approval of City.

(b) Notwithstanding the foregoing, Developer shall not, without the prior written consent of City (which City may grant, condition, or withhold in its sole and absolute discretion):

(i) Conduct any Phase II environmental site assessment work, intrusive or destructive test, other than volume soil sampling, or any other invasive testing, boring, drilling, excavation, or sampling that penetrates below the surface of the City Exchange Parcel;
(ii) Disturb, remove, or destroy any improvements, structures, landscaping, trees, or vegetation on the City Exchange Parcel;
(iii) Discharge, release, or dispose of any hazardous materials, pollutants, or contaminants on, under, or about the City Exchange Parcel; or
(iv) Conduct any activity that would trigger any reporting, notification, or remediation obligation under any applicable federal, state, or local environmental law, regulation, or ordinance.

5. Conditions of Entry.

(a) Prior Notice. Prior to entering the City Exchange Parcel to perform the Authorized Activities, Developer shall provide City at least forty-eight (48) hour's prior written notice, which notice may be provided via electronic mail. Such notice shall describe in reasonable detail the nature, scope, and anticipated schedule of the proposed Authorized Activities, and shall identify all Authorized Representatives who will enter the City Exchange Parcel. Developer shall promptly provide to City all material updates and modifications to the schedule.

(b)City Representative. City shall have the right, but not the obligation, to have a representative present during any entry by Developer or its Authorized Representatives onto the City Exchange Parcel; if City's representative is not available at the time and date identified in Developer's notice given pursuant to Section 5(a) above, the City may propose alternative times that are within two (2) business days of the time and date identified in Developer's notice .

(c) Compliance with Laws. Developer and all Authorized Representatives shall comply with all applicable federal, state, and local laws, statutes, regulations, ordinances, codes, and orders in connection with their entry onto and activities on the City Exchange Parcel, including without limitation all applicable environmental laws, health and safety regulations, and building codes.

(d) Permits and Approvals. Developer shall, at its sole cost and expense, obtain all permits, licenses, and governmental approvals required in connection with the Authorized Activities prior to commencing such activities.

6. Insurance Requirements. Prior to any entry on the City Exchange Parcel, Developer and each Authorized Representative entering the Property (other than Developer's its officers, directors, employees, who shall be covered by Developer's insurance) shall, at its sole cost and expense, procure and maintain in full force and effect throughout the Entry Period, a commercial general liability insurance policy with a financially responsible insurance company acceptable to City, covering (i) Developer's and its Authorized Representatives' performance of the Authorized Activities; and (ii) with respect to Developer's insurance only, contractual liability coverage insuring Developer's indemnity obligations set forth in this ROE. Developer shall deliver to City evidence that Developer and each such Authorized Representative is carrying insurance policies which shall: (i) have a per occurrence limit of at least One Million Dollars ($1,000,000.00) and an aggregate limit of at least Two Million Dollars ($2,000,000.00); (ii) name City and Developer as additional insureds; (iii) be primary and non-contributing with any other insurance available to City; and (iv) contain a full waiver of subrogation clause. [City to review/confirm insurance requirements.]

All insurance policies required under this Section shall be issued by insurance companies licensed to do business in the State of California with a Best's rating of not less than A-:VII.

7. Indemnification. To the maximum extent allowed by law, Developer shall indemnify, defend (with counsel approved by City), assume all liability for and hold harmless City and its elected and appointed officials, officers, employees, agents, and volunteers (collectively, "**City Indemnitees**") from all actions, claims, suits, penalties, obligations, liabilities, damages to property (including, without limitation, any damage cause by Hazardous Materials that are released, discharged, or spilled on, under, or from the City Exchange Parcel as a result of the

Authorized Activities), costs and expenses (including, without limitation, any fines, penalties, judgments, settlements, actual litigation expenses and experts' and actual attorneys' fees, and any cost to remediate and clean up the release, discharge, or spill of any Hazardous Materials as a result of the Authorized Activities to the satisfaction of City and all applicable governmental authorities), liens filed against the City Exchange Parcel or bodily and/or personal injuries or death to any persons to the extent caused by Developer's and its Authorized Agents' use of the City Exchange Parcel or performance of this ROE, except to the extent caused by the gross negligence or willful misconduct of any City Indemnitees and also and expressly excluding any claims or expenses (i) resulting from the mere discovery of any adverse condition or (ii) for consequential, indirect or punitive damages except to the extent that City is liable therefor to any third party that is unaffiliated with City. This Section 7 shall survive the expiration or termination of this ROE and shall not be limited by the insurance requirements set forth in Section 5.

**8.** Restoration and Repair.

(a) Upon completion of the Authorized Activities, or upon expiration or termination of this ROE, whichever occurs first, Developer shall, at its sole cost and expense, promptly restore the City Exchange Parcel to substantially the same condition as existed immediately prior to Developer's entry, including without limitation: (i) backfilling and compacting any borings, test pits or excavations approved in writing by City in connection with the Authorized Activities; (ii) repairing or replacing any damaged improvements, structures, pavement, curbing, fencing, landscaping, and irrigation systems caused by or resulting from the Authorized Activities; (iii) removing all equipment, materials, debris, and waste generated by or in connection with the Authorized Activities; and (iv) properly disposing of all soil cuttings, groundwater, and other materials on the Property as a result of or in connection with the Authorized Activities and removed from the City Exchange Parcel in accordance with all applicable environmental laws and regulations.

(b) If Developer fails to restore the City Exchange Parcel as required above within thirty (30) days following written notice from City, or within such shorter period as may be reasonably necessary to address an imminent health or safety concern, City may perform or cause to be performed such restoration work as City deems necessary, and Developer shall reimburse City for all actual, out-of-pocket costs and expenses incurred by City in connection therewith within fifteen (15) days following City's written demand, together with reasonable documentation of such costs.

(c) Developer's restoration obligations under this Section 7 shall survive the expiration or earlier termination of this ROE.

**9.** Reports and Information. Developer shall provide City with copies of all final reports, studies, analyses, test results, and other documents prepared by or on behalf of Developer in connection with the Authorized Activities (collectively, "**Investigation Reports**"), promptly upon completion. Developer shall promptly notify City, in writing and in no event later than twenty-four (24) hours following discovery, of: (i) the discovery of any hazardous materials, contamination, or environmental condition on or under the City Exchange Parcel not previously known to City; (ii) any damage to the City Exchange Parcel or any improvements thereon resulting from the Authorized Activities; (iii) any personal injury occurring on the City Exchange Parcel in connection with the Authorized Activities; or (iv) any claim, demand, or action arising out of or related to the Authorized Activities. City acknowledges that certain Investigation Reports may contain confidential or proprietary information of Developer. City

shall treat such information in accordance with the confidentiality provisions of the Agreement, subject to the requirements imposed on City by the California Public Records Act (Government Code Sections 6253 et seq.).

10. Hazardous Materials.

(a) Developer shall not bring onto, use, store, generate, treat, or dispose of any Hazardous Materials on, under, or about the City Exchange Parcel, except for such quantities of Hazardous Materials as are customarily and reasonably necessary to perform the Authorized Activities (such as drilling fluids, sampling equipment decontamination fluids, and laboratory-grade chemicals), provided that all such Hazardous Materials are used, stored, handled, transported, and disposed of in strict compliance with all applicable environmental laws. In the event that any Hazardous Materials are brought onto the property and released, discharged, or spilled on, under, or from the City Exchange Parcel as a result of the Authorized Activities, Developer shall immediately: (i) take all steps necessary to contain and control such release, discharge, or spill; (ii) notify City in writing within twenty-four (24) hours thereof; (iii) notify all applicable governmental authorities as required by law; and (iv) at Developer's sole cost and expense, remediate and clean up such release, discharge, or spill to the satisfaction of City and all applicable governmental authorities. Developer expressly agrees to and shall indemnify, defend (with counsel approved by City), release and hold City Indemnitees harmless from and against any liability, loss, fine, penalty, fee, charge, lien, judgment, damage, entry, claim, cause of action, suit, proceeding (whether legal or administrative), remediation, response, removal, or clean-up and all costs and expenses associated therewith, and all other costs and expenses (including, but not limited to, attorneys' fees, expert fees, and court costs) in any way related to the release, discharge, migration, disposal, treatment, transportation, manufacture, or use of any Hazardous Materials on, in, under, or about the City Exchange Parcel caused by or resulting from Hazardous Materials that are brought onto the Property by the Developer in connection with the Authorized Activities and/or entry upon the City Exchange Parcel by Developer, its Authorized Representatives or any other third party acting under the control or request of Developer, except to the extent caused by City's gross negligence or willful misconduct. This indemnity, defense and hold harmless obligation shall survive the expiration or termination of this ROE.

(b) City makes no representations or warranties, express or implied, in this Agreement with respect to the environmental condition of the City Exchange Parcel or the surrounding property (including, without limitation, all facilities, improvements, structures and equipment thereon and soil and groundwater thereunder), or compliance with any applicable Hazardous Materials Laws, and gives no indemnification, express or implied, in this Agreement for any costs of liabilities arising out of or related to the presence, discharge, migration or release or threatened release of Hazardous Materials in or from the City Exchange Parcel. Developer recognizes that, in entering upon the City Exchange Parcel and performing the Authorized Activities under this ROE, Developer and its Authorized Representatives may be working with, or be exposed to, substances or conditions which are toxic or otherwise hazardous. Developer shall provide prior written notice to its Authorized Representatives of the potential presence and exposure to such toxic or Hazardous Materials or conditions. Developer agrees that, for purposes of this ROE and performance of the Authorized Activities, it is assuming full responsibility for such risks. The provisions of this Section 10(e) shall not limit or otherwise affect the rights and obligations of Developer and City under any separate written agreement between the parties.

11. Termination and Revocation. This ROE shall terminate automatically upon expiration of the Entry Period. City may revoke the right of entry granted herein and terminate this ROE at any time, with or without cause, upon five (5) business days' prior written notice to Developer. Upon receipt of such notice, Developer shall immediately cease all Authorized Activities on the City Exchange Parcel and shall complete all restoration obligations under Section 7 within thirty (30) days following such revocation. This ROE shall terminate automatically and without further action by either party upon termination of the Agreement in accordance with its terms. The following provisions shall survive the expiration or earlier termination of this ROE: Section 6 (Indemnification), Section 7 (Restoration and Repair), Section 8 (Reports and Information), Section 9 (Hazardous Materials), Section 12 (Waiver of Claims), Section 13 (No Liens) and Section 14 (Costs).

12. Waiver of Claims. Developer, for itself and on behalf of each Authorized Representative, hereby waives any and all claims against City Indemnitees for any loss, damage, or injury to Developer's or any Authorized Representative's property or equipment occurring on or about the City Exchange Parcel, except to the extent caused by the gross or willful misconduct of any City Indemnitees.

13. No Liens. Developer shall not permit or suffer any mechanic's lien, materialman's lien, stop notice, or other lien or encumbrance to be filed or recorded against the City Exchange Parcel arising out of or in connection with the Authorized Activities. If any such lien or encumbrance is filed or recorded, Developer shall cause the same to be discharged, released, or bonded within fifteen (15) days following Developer's receipt of written notice from City thereof.

14. Costs. Developer shall bear all costs and expenses of any kind or nature in connection with its use of the City Exchange Parcel, including, without limitation, any fines or penalties related to, or arising from performance of the Authorized Activities and any costs to incurred by City to the extent caused by Developer's or its Authorized Representatives' failure to comply with this ROE.

15. Notices. All notices, demands, and communications under this ROE shall be given in the manner provided in Section 12 of the Agreement.

16. Governing Law. This ROE shall be governed by and construed in accordance with the laws of the State of California.

17. Entire Agreement. This ROE, together with the Agreement, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, representations, and understandings relating thereto.

18. Amendment. This ROE may not be amended or modified except by a written instrument executed by both City and Developer.

19. Assignment. Developer shall not assign any of its rights or obligations under this ROE without City's express prior written consent, which City may grant, condition, or withhold in its sole and absolute discretion.

20. Waiver. No waiver of any provision of this ROE shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No waiver of any breach of this ROE shall constitute a waiver of any subsequent breach.

21. Severability. If any provision of this ROE is held to be invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect.

22. Counterparts. This ROE may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

23. Attorney's Fees. The prevailing party in any action to enforce this ROE shall be entitled to recover reasonable attorney's fees and costs from the other party.

24. Strictly Construed. This ROE is to be strictly construed and no uses other than the Authorized Activities specifically stated herein are authorized hereby.

[*Signatures on following page*]

IN WITNESS WHEREOF, the parties hereto have executed this ROE as of the date first written above.

DEVELOPER:

VOP AGNEWS, LLC

By: _____
Name: _____
Title: Authorized Signatory

CITY:

CITY OF SANTA CLARA, a municipal corporation

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____

**RIGHT OF ENTRY EXHIBIT A**

**CITY EXCHANGE PARCEL**

**EXHIBIT D**

**FORM OF REIMBURSEMENT AGREEMENT**

**REIMBURSEMENT AGREEMENT**
**BY AND BETWEEN THE**
**CITY OF SANTA CLARA, CALIFORNIA,**
**AND**
**AGNEWS VOP, LLC**

## PREAMBLE

This Reimbursement Agreement ("Agreement") is entered into on May ____, 2026 ("Effective Date"), by and between Agnews VOP, LLC, a California limited liability company ("Developer"), and the City of Santa Clara, California, a chartered California municipal corporation ("City"). City and Developer may be referred to individually as a "Party" or collectively as the "Parties."

## RECITALS

A. Developer owns and/or is authorized to submit a development application by the owner of those certain real properties totaling approximately 52.9 acres located at 4220 Network Circle, in Santa Clara, California. Developer would retain a portion of the site ("VOP Retained Parcel") for the development of residential uses ("Network Circle Residential Project") and exchange a portion of the site with the City ("VOP Exchange Parcel") that would accommodate the potential relocation of the City Hall Campus ("City Hall Improvement Project"). Developer is also in preliminary discussions with City for a separate development application for residential uses ("Warburton Residential Project") on the current City Hall Campus located at 1500 Warburton Avenue ("City Exchange Parcel"). The Network Circle Residential Project and the Warburton Residential Project collectively may be referred to as the "VOP Residential Projects," and the VOP Residential Projects and the City Hall Improvement Project collectively may be referred to as the "Proposed Projects"). The Developer and City require or contemplate the following approvals and processing (collectively, "Project Approvals"):

1. General Plan Amendments for the Proposed Projects
2. Rezonings for the Proposed Projects
3. Development Plans for the VOP Residential Projects
4. Subdivision Maps for the VOP Residential Projects
5. Land Exchange Agreement regarding the exchange of the VOP Exchange Parcel and the City Exchange Parcel
6. One or more Development Agreements for the VOP Residential Projects
7. Analysis necessary to comply with the California Environmental Quality Act ("CEQA") for each of the Proposed Projects, which would include at least one Environmental Impact Report ("EIR"), consisting of a Draft EIR, Responses to Comments, a Final EIR, and a Mitigation Monitoring and Reporting Program.

B. The Parties executed that certain Exclusive Negotiation Agreement dated May __, 2026 ("ENA"). The ENA defines a period of time during which the Parties will engage in good faith negotiations regarding the potential exchange of the VOP Exchange Parcel and the City Exchange Parcel. Negotiation pursuant to the ENA, review and processing of the Project Approvals, and due diligence work associated with the City Hall Improvement Project will require City to incur various costs and expenses including consultant costs and attorneys' fees and costs that the City has not budgeted for. The Developer has agreed to reimburse the City for Eligible Costs (as defined below) that incurred by City in connection with the Proposed Projects beginning on December 30, 2025 and continuing during the ENA's term.

C. In order to facilitate processing of the Project Approvals and conduct negotiations pursuant to the ENA, City has retained a law firm with expertise in CEQA and land use matters (the "Outside Counsel") and a real estate consulting firm (the "Real Estate Consultant"). City also expects to retain other professionals, including a certified real estate appraiser, and architectural and engineering firm, and various technical consultants to inform the due diligence, feasibility, and valuation efforts associated with the potential exchange of the VOP Exchange Parcel and the City Exchange Parcel (the "Due Diligence Consultants"). Finally, City will retain a community engagement specialist to manage communications, outreach and an online website portal (the "Community Engagement Consultant"). Developer is willing to reimburse City for costs charged by the Outside Counsel, Real Estate Consultant, and Due Diligence Consultants, and to share costs of the Community Engagement Consultant, starting as of December 30, 2025, and continuing throughout the ENA's term and pursuant to this Agreement's terms and conditions.

D. Separately, City has identified, and Developer is directly reimbursing, an environmental consultant with expertise in CEQA and their subconsultants to conduct the environmental analysis, and such costs are outside the scope of this Agreement. The parties acknowledge and agree that the City is the lead agency conducting review pursuant to CEQA, and any final determination must reflect the City's independent judgement as to the analysis and how to comply with CEQA.

E. Developer understands and agrees that its funding of such costs is at its sole risk and that nothing in this Agreement is or shall be construed to control or limit the City's exercise of discretion with respect to any aspect of evaluating the Proposed Projects, nor shall it be construed as making any commitment regarding the granting of any entitlements for development.

In consideration of the recitals and mutual promises contained herein, the Parties agree as follows:

## AGREEMENT PROVISIONS

### 1. PURPOSE OF AGREEMENT.

The purpose of this Agreement is to provide for payment by Developer of all Eligible Costs (defined below) actually incurred by City in connection with the Proposed Projects.

## 2. REIMBURSEMENT OBLIGATION.

Developer shall reimburse the City for all "Eligible Costs," which shall consist of the following:

A. Outside Counsel's and Real Estate Consultant's fees and costs associated with the negotiation, drafting, and implementation of the ENA and costs and expenses related to City's work on the Proposed Projects, including review and consideration of the Project Approvals;

B. Due Diligence Consultants' fees and costs associated with the analysis of the VOP Exchange Parcel and the City Exchange Parcel for purposes of evaluating the potential land swap pursuant to the ENA;

C. One-half (1/2) of a Community Engagement Consultant's fees and costs associated with outreach efforts under the ENA; and

D. Outside Counsel's fees and costs ("Legal Defense Costs") actually incurred in connection with the legal defense of the ENA and any activities conducted pursuant thereto ("Legal Challenge"), subject to the limitations below.

Eligible Costs shall include City costs incurred beginning on December 30, 2025 through the Effective Date to cover initial feasibility analysis and the negotiation and preparation of the ENA.Beginning as of the Effective Date, additional Eligible Costs shall be strictly limited to fees and costs incurred during the term of the ENA; provided, however, that if a Land Exchange Agreement is approved by the City during the term of the ENA, additional Eligible Costs shall also include fees and costs related to the implementation of such Land Exchange Agreement. If either Party terminates the ENA pursuant to the terms thereof, no further Eligible Costs shall accrue; provided, however, that Developer shall remain obligated to reimburse the City for Eligible Costs incurred prior to such termination.

Outside Counsel and Real Estate Consultant will initially focus on tasks related to the Project Approvals, environmental review, and negotiation of the key financial terms of the land swap pursuant to the ENA. Prior to commencement of drafting the Land Exchange Agreement or a development agreement, City shall provide Developer with a good faith, non-binding estimate of additional fees and costs for the subsequent phase of work in writing. Developer shall have five (5) business days after receipt of such notice to terminate the ENA prior to such work commencing. If Developer fails to provide timely notice of its desire to terminate the ENA, or provides early notice that it accepts the costs, such additional work shall commence and be considered Eligible Costs.

Prior to commencement of Due Diligence Consultants' work, City shall provide Developer with a good faith, non-binding estimate of fees and costs for the due diligence work in writing. Developer shall have five (5) business days after receipt of such notice to terminate the ENA prior to such work commencing. If Developer fails to provide timely notice of its desire to terminate the ENA, or provides early notice that it accepts the costs, such additional work shall commence and be considered Eligible Costs.

Prior to commencement of Community Engagement Consultant's work, City shall provide Developer with a good faith, non-binding estimate of fees and costs for the community engagement work in writing. Developer shall have five (5) business days after receipt of such notice to terminate the ENA prior to such work commencing. If Developer fails to provide timely notice of its desire to terminate the ENA, or provides early notice that it accepts the costs, such additional work shall commence and be considered Eligible Costs.

In the event of a Legal Challenge, the City and Developer shall meet and confer to assess the Legal Challenge for no more than ten (10) business days following the date the City is served with such Legal Challenge. If, and only if, during the meet and confer period, Developer opts to defend any such Legal Challenge (in the Developer's sole and absolute discretion) and informs the City of this election, Eligible Costs shall include the Legal Defense Costs, and Developer shall indemnify and hold harmless the City from costs and expenses (including, without limitation, any fines, penalties, judgments, settlements, actual litigation expenses and experts' and actual attorneys' fees) arising from or related to the Legal Challenge, except to the extent caused by the gross negligence or willful misconduct of the City. If, during the meet and confer period, Developer opts not to defend any such Legal Challenge, informs the City of this election, and terminates the ENA to moot any Legal Challenge, Legal Defense Costs shall be excluded from Eligible Costs, but Developer shall remain responsible for costs and expenses (including potential third-party catalyst attorney's fees) incurred as a result of the Legal Challenge.

The City will make a good faith effort to track spending on an at least monthly basis and shall promptly notify Developer in writing if City becomes aware that actual costs are expected to materially exceed the original estimates ("Increase Notice"). For purposes of this Agreement, an increase of 15% or more shall be considered a material increase. Such increase within 15% of the estimate shall not affect the Developer's obligation to reimburse the City for Eligible Costs actually incurred. Upon receipt of the City's Increase Notice Developer shall have five (5) business days after receipt of such notice to terminate the ENA. If Developer fails to provide timely notice of its desire to terminate the ENA, or provides early notice that it accepts the costs, Developer shall pay such costs and the ENA shall remain in effect. .

Subject to Section 6, the City shall provide summary invoices to verify that the Eligible Costs were incurred in accordance with this Agreement.

## 3. EVERGREEN DEPOSIT.

(a) City shall establish and Developer shall fund a deposit account designed to ensure that City is never required to perform work for which reimbursement funds have not been previously deposited ("Evergreen Deposit"). The Evergreen Deposit shall contain funds necessary to cover three months' worth of budgeted expenditures by City for Eligible Costs. Developer shall fund the Evergreen Deposit initially by depositing with City on or before the Effective Date the sum of Two Hundred Fifty Thousand Dollars ($250,000) in the form of a cashier's check. Developer shall replenish the Evergreen Deposit on a monthly basis until termination of this Agreement or as long as expenditures made by City relating to City's review, evaluation, consideration, and processing of the Proposed

Projects remain unreimbursed, whichever is later. At no time shall there be less than $50,000 remaining fund balance in the account.

Beginning on the Effective Date, Developer shall replenish the Evergreen Deposit by depositing on or before the last day of each month the full amount of all invoices delivered by City to Developer within the previous month. Thus, for example, on or before July 1, 2026, Developer would replenish the Evergreen Deposit by depositing the sum of all invoices submitted by City to Developer during the month of June, 2026.

(b) In the event City determines that total invoices for any particular three-month period are likely to exceed $250,000, City may request that Developer increase the total funds available in the Evergreen Deposit accordingly. If Developer does not agree to increase the deposited amount, City may adjust its work schedule, including through the adjustment of project deadlines, so as not to exceed the amount available in the Evergreen Deposit.

(c) The Parties acknowledge that deposits to the Evergreen Deposit are not a "source of income" within the meaning of the California Political Reform Act (pursuant to California Government Code Section 87103.6).

(d) Upon termination of this Agreement, if the City has incurred Eligible Costs in excess of total funds available in the Evergreen Deposit, the City shall, within ninety (90) days of such termination, deliver to Developer reasonable evidence of its incurrence of such Eligible Costs, and Developer shall, within ninety (90) days of receipt of such evidence, reimburse City for all remaining and outstanding reimbursements of Eligible Costs to which it is entitled under this Agreement. Once all remaining and outstanding reimbursements have been paid to the City by the Developer, City shall return to Developer any remaining unused portion of the Evergreen Deposit.

## 4. REFUND OF UNEXPENDED BALANCE.

The City shall refund any unexpended balance of the Deposit within 120 days of the occurrence of any of the following: (1) the termination of this Agreement pursuant to Section 7 below; or (2) the no-fault termination of the ENA pursuant to its terms; (3) the date of a final City Council action to disapprove the Proposed Projects; or (4) the date on which all applicable limitations periods to challenge a final City Council action to approve the Proposed Projects, if so approved, have expired or, if any challenge is filed, then the date on which such challenge is finally resolved.

Notwithstanding the foregoing, if the ENA is terminated by City due to an uncured default of Developer under the ENA, the Deposit and any interest earned thereon shall be retained by City, and City shall be reimbursed by Developer for any additional Eligible Costs incurred by City in excess of the remaining balance of the Deposit prior to the effective date of such termination of the ENA.

## 5. NO COMMITMENT AS TO FUTURE APPROVALS.

Nothing in this Agreement is or shall be construed to be a covenant, promise, or commitment by the City (including, without limitation, any agency, board, or

commission of City) to grant or issue any Project Approvals or any other preliminary or final approvals in connection with the Proposed Projects or to enter into a Land Exchange Agreement. Developer acknowledges and agrees that nothing in this Agreement limits City's discretion, in any manner, with respect to any aspect of the Proposed Projects. Developer agrees that it shall remain obligated to pay all Eligible Costs incurred prior to termination of this Agreement or the ENA, regardless of whether any aspect of the Proposed Projects is approved and regardless of whether City and Developer enter into the proposed Land Exchange Agreement.

## 6. ATTORNEY-CLIENT RELATIONSHIP AND CONSULTANT WORK PRODUCT.

Developer recognizes that City will be the client of Outside Counsel, and that attorney-client privilege will apply to all communications between City and Outside Counsel, whether verbal, written, or electronically transmitted, including but not limited to exchanges of administrative draft documents and discussions about administrative draft documents. Developer does not have an attorney-client relationship with Outside Counsel and shall not have access to any such communications.

Developer further recognizes that City will be the client of Real Estate Consultant, Due Diligence Consultants, and Community Engagement Consultant, and that the City shall have sole authority to direct such consultants' work, and all consultant work product remains under the control and ownership of such consultants (or the City, as may be set forth in individual consultant agreements).

## 7. TERMINATION OF AGREEMENT.

Either Party may terminate this Agreement without cause by giving the other Party written notice ("Notice of Termination") which clearly expresses that Party's intent to terminate the Agreement. Notice of Termination shall become effective no less than ten (10) calendar days after a Party receives such notice.

As of the Notice of Termination effective date, the ENA shall automatically terminate, and the City shall stop processing the Warburton Residential Project application.

Developer shall have no obligation to pay any Eligible Costs incurred on or after the effective date of the termination, but shall remain responsible for any fees incurred prior to the effective date of the termination. Developer shall remain liable for expenses incurred by City following Developer's termination in order to terminate any contractual relationships and/or to conduct clerical, logistical, or other non-substantive work required to efficiently terminate the consulting relationship.

## 8. INTEGRATED DOCUMENT.

This Agreement, along with the ENA, represents the entire agreement between City and Developer. Other than the ENA, no other understanding, agreements, conversations, or otherwise, with any representative of either Party prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal

agreement shall be considered unofficial information and is not binding upon either Party.

**9. SEVERABILITY.**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**10. AMENDMENTS.**

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties.

**11. WAIVER.**

Waiver of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

**12. NOTICES.**

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara
Attention: City Manager
1500 Warburton Avenue
Santa Clara, California 95050
Email: manager@santaclaraca.gov

With copies to:

City of Santa Clara
Attention: City Attorney
1500 Warburton Avenue
Santa Clara, California 95050
Email: cityattorney@santaclaraca.gov

Burke, Williams & Sorenson, LLP
1 California Street, Suite 3050
San Francisco, CA 94111
Attention: Anna Shimko
Email:ashimko@bwslaw.com

and to Developer addressed as follows:

Agnews VOP, LLC
c/o Valley Oak Partners GP, LLC
734 The Alameda
San Jose, CA 95126
Attention: Doug Rich
Email: doug@valleyoakpartners.com

With a copy to:

Holland & Knight, LLP
560 Mission St. Suite 1900
San Francisco, CA 94105
Attention: Tamsen Plume
Email: tamsen.plume@hklaw.com

If notice is sent via email, a signed, hard copy of the material shall also be mailed. The workday the email was sent shall control the date notice was deemed given. An email transmitted after 5:00 p.m. on a Business Day shall be deemed to have been transmitted on the following Business Day.

## 13. CAPTIONS.

The captions of the various sections, paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

## 14. LAW GOVERNING CONTRACT AND VENUE.

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

## 15. COUNTERPARTS AND SIGNATURES.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

**CITY OF SANTA CLARA, CALIFORNIA**
a chartered California municipal corporation

APPROVED AS TO FORM:

Dated: _____

GLEN GOOGINS
City Attorney

JOVAN GROGAN
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

**AGNEWS VOP, LLC**
a California Limited Liability Company

Dated: _____

By: _____
(Signature)

Name: _____

Title: _____

Local Address: _____

_____

Email Address: _____

Telephone: (  ) _____

Fax: (  ) _____

"DEVELOPER"