City of Santa Clara

Meeting Agenda

Council and Authorities Concurrent Meeting

Tuesday, September 1, 2020 **3:30 PM** **City Hall Council Chambers**
1500 Warburton Avenue
Santa Clara, CA 95050

Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, to prevent the spread of COVID-19, the City of Santa Clara has implemented methods for the public to participate remotely:

- **Via Zoom:**
  - **o** https://santaclaraca.zoom.us/j/99706759306

    Meeting ID: 997-0675-9306 or

  - **o Phone: 1(669) 900-6833**
- **Via the City's eComment (now available during the meeting)**
- **Via email to PublicComment@santaclaraca.gov**

As always, the public may view the meetings on SantaClaraCA.gov, Santa Clara City Television (Comcast cable channel 15 or AT&T U-verse channel 99), or the livestream on the City's YouTube channel or Facebook page.

For those individuals that do not have the above access, the City Cafeteria has been set up to accommodate up to 10 people at a time and public comment will be given from that location.

The meeting set-up is in line with the recommendations of the COVID-19 White House Task Force, which notes no more than 10 people gatherings. The Mayor will be present for the meeting with Councilmembers and department heads participating remotely. A limited number of staff will also be present.

3:30 PM CLOSED SESSION

Call to Order in the Council Chambers

Roll Call

Public Comment

The public may provide comments regarding the Closed Session item(s) just prior to the Council beginning the Closed Session. Closed Sessions are not open to the public.

20-809 Conference with Real Property Negotiators (CC)
Pursuant to Gov. Code § 54956.8
Property: Please see below listing for APNs and addresses
City/Authority Negotiator: Deanna J. Santana, City Manager/Executive Director (or designee)
Negotiating Parties: Please see below listing for names for negotiating party(ies)
Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment)

	APN	Property Address	Property Owner (Name)
1	224-04-062	2755 LAFAYETTE STREET, SANTA CLARA	WITKIN PROPERTIES LP
2	224-04-057	890 WALSH AVENUE, SANTA CLARA	L.A.W. LLC
3	224-04-088	2555 LAFAYETTE STREET, SANTA CLARA	GAHRAHMAT FAMILY LP 1
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5	224-35-014	630 MARTIN AVENUE, SANTA CLARA	D & R MILLER PROPS LLC
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7	224-36-001	840 COMSTOCK STREET, SANTA CLARA	LAPTALO JAKOV, TRUSTEE
8	224-04-090	851 MARTIN AVENUE, SANTA CLARA	GAHRAHMAT FAMILY LP II
9	224-04-071	651 MARTIN AVENUE, SANTA CLARA	GAHRAHMAT FAM LP II LP
10	224-61-002	1401 MARTIN AVENUE, SANTA CLARA	ALMAN DIANA J TRUSTEE & ET AL
11	224-60-014	1261 MARTIN AVENUE, SANTA CLARA	MARTIN INVESTMENT PROPERTIES LLC
12	224-60-012	1199 MARTIN AVENUE, SANTA CLARA	1065 MARTIN AVE LLC
13	224-60-013	1061 MARTIN AVENUE, SANTA CLARA	1065 MARTIN AVE LLC
14	224-60-011	1055 MARTIN AVENUE, SANTA CLARA	YOUNG SANG A AND ANNE C TRUSTEE
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20	224-35-020	2435 LAFAYETTE STREET, SANTA CLARA	WESCO PROPERTIES INC
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32	224-57-003	1515 Walsh Avenue, Santa Clara	The Malisic Survivor's Trust, Malisic Residual Trust
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37	230-03-105	2600 DE LA CRUZ BLVD, SANTA CLARA	C-1 Santa Clara, LLC

Convene to Closed Session (Council Conference Room)

4:30 PM COUNCIL REGULAR MEETING

Regular Meeting to Reconvene at 4:30 PM or shortly thereafter

Pledge of Allegiance and Statement of Values

REPORTS OF ACTION TAKEN IN CLOSED SESSION MATTERS

CONTINUANCES/EXCEPTIONS

SPECIAL ORDER OF BUSINESS

1.A 20-700 Proclamation of September 2020 as Community Preparedness Month

1.B 20-739 Recognition of Outstanding Community Service by Local Business Water Spring

1.C 20-569 Verbal Report from City Manager regarding COVID-19 Pandemic and Presentation of Healthy Meals CPOD Video [Council Pillar: Enhance Community Engagement and Transparency]

CONSENT CALENDAR

[Items listed on the CONSENT CALENDAR are considered routine and will be adopted by one motion. There will be no separate discussion of the items on the CONSENT CALENDAR unless discussion is requested by a member of the Council, staff, or public. If so requested, that item will be removed from the CONSENT CALENDAR and considered under CONSENT ITEMS PULLED FOR DISCUSSION.]

2.A 20-17 Board, Commissions and Committee Minutes

Recommendation: Note and file the Minutes of:

Planning Commission Meeting - February 26, 2020
Planning Commission Meeting - April 8, 2020

2.B 20-701 Action on Bills and Claims Report (CC, SA, HA) for the period July 25th, 2020 - August 7th, 2020 [Council Pillar: Enhance Community Engagement and Transparency]

Recommendation: Approve the list of Bills and Claims for July 25, 2020 - August 7, 2020.

2.C **20-691** Action on the Santa Clara Convention Center FY 2019/20 4th Quarter Financial Status Report [Council Pillars: Promote and Enhance Economic, Housing and Transportation Development, Enhance Community Engagement and Transparency, and Promote Sustainability and Environmental Protection]

Recommendation: Note and file the Santa Clara Convention Center Financial Status Report for the fourth quarter ended June 30, 2020, as submitted by Spectra.

2.D **20-322** Adopt a Resolution in Support of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) [Council Pillar: Enhance Community Engagement and Transparency]

Recommendation: Adopt a resolution in support of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

2.E **20-765** Action on an Affordable Housing Agreement with KB Homes South Bay, Inc., for Project located at 2780 El Camino Real [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

Recommendation:
1. Approve and authorize the City Manager to execute the Affordable Housing Agreement with KB Homes South Bay, Inc. , to execute amendments thereto, and to take any other action necessary to implement the requirement for the provision of five (5) Below Market Purchase homes within a 58-unit townhome project at 2780 El Camino Real; and
2. Authorize the recordation thereof.

2.F **20-764** Action on an Affordable Housing Agreement with DD Warburton Group LLC, for Project located at 1900 Warburton Avenue [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

Recommendation: 1. Approve and authorize the City Manager to execute the Affordable Housing Agreement with DD Warburton Group LLC to execute amendments thereto, and to take any other action necessary to implement the requirement for the provision of one (1) Below Market Purchase homes within a 12-unit townhome project at 1900 Warburton Avenue; and
2. Authorize the recordation thereof.

2.G **20-614** Action on a Resolution for the Use of City Electric Forces at Various Locations [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

Recommendation: Adopt a Resolution approving the use of City Electric Forces for the installation of facilities at 753 Poplar Street, south side of El Camino Real north of Benton Street, 1627 Monroe Street, Reed Street between Lafayette and Grant Street, 1375 El Camino Real, 2200 Lawson Lane, 2888 San Tomas Expressway, 3090 Homestead Road, Lawrence Expressway and De Soto Avenue, Monroe Street and Reeve Street, 2381 Monroe Street, 515 Aldo Avenue, 4952 Bill Walsh Way, 575 Benton Street, 2904 Corvin Drive, 5123 Calle De Sol, 2445 Cabrillo Avenue, 2343 Calle Del Mundo, and 2305 Mission College Boulevard.

2.H **20-644** Action on Award of Contract for the Scott Boulevard (Garrett Dr. - Central Expwy.) Traffic Signal Interconnect and Coordination Project (CE 18-19-15) [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

Recommendation: 1. Award a Contract for the Scott Boulevard (Garrett Dr. - Central Expwy.) Traffic Signal Interconnect and Coordination Project (CE 18-19-15), including Base Bid, Add Alternate 1, and Add Alternate 2, to the lowest responsive and responsible bidder, DV Electric, Co., in the amount of $207,649.31 and authorize the City Manager to execute any and all documents associated with, and necessary for the award, completion, and acceptance of this Project; and
2. Authorize the City Manager to execute change orders up to approximately 15 percent of the original contract price, or $31,150.69, for a total not to exceed amount of $238,800.

2.I **20-698** Action on a Resolution Acknowledging Receipt by City Council of a State-Mandated Compliance Report on Required Annual Fire Inspections of Certain Occupancies [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

Recommendation: Adopt a Resolution acknowledging receipt of a report from the Fire Chief of the Santa Clara Fire Department regarding the inspection of certain occupancies requiring annual inspections pursuant to sections 13146.2 and 13146.3 of the California Health and Safety Code.

2.J **20-710** Action on the California Library Literacy Services Grant Awards Second Installment for the Adult Literacy Program and Related Budget Amendment [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

Recommendation: 1. Accept the California Library Literacy Services grant award of $30,072; and
2. Approve the FY 2020/21 Operating Budget amendment in the Library Operating Grant Fund to recognize the grant funding of $30,072 and appropriate the funds to the Read Santa Clara Adult Literacy Program.

2.K **20-715** Action on First Amendment to Lease between Gahrahmat Family Limited Partnership 11, LP (Gahrahmat) for Commercial Space at 881 Martin Avenue (APN 224-04-090) for Silicon Valley Power [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

Recommendation: Authorize the City Manager to execute the First Amendment to Lease between Gahrahmat Family Limited Partnership 11, LP (Gahrahmat) for Commercial Space at 881 Martin Avenue (APN 224-04-090) for Silicon Valley Power.

2.L **20-727** Action on Contracts for Silicon Valley Power [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure] as follows, authorize the City Manager to execute:

1. Amendment No. 1 to the Agreement for the Performance of Services with Eagle Security Services / Cerny's Locksmith;
2. Agreement for Services with Montrose Air Quality Services, LLC in an amount not to exceed $415,705 for the period of September 1, 2020 through December 31, 2025;
3. Amendment No. 1 to the Agreement for Services with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories extending the term through September 30, 2022;
4. Amendment No. 1 to Contract No. 2004D with Daleo, Inc. authorizing staff to issue call orders through July 31, 2021;
5. Amendment No. 1 to the Agreement for Services with Document Management Technologies, LLC in an amount not to exceed $230,000 for the period September 5, 2020 through September 5, 2022; and,
6. Add or delete services consistent with the scope of the agreements, and allow future rate adjustments subject to request and justification by contractor, approval by the City, and the appropriation of funds.

Recommendation:

1. Authorize the City Manager to execute Amendment No. 1 to the Agreement for the Performance of Services with Eagle Security Services / Cerny's Locksmith;
2. Authorize the City Manager to execute an Agreement for Services with Montrose Air Quality Services, LLC in an amount not to exceed $415,705 for the period of September 1, 2020 through December 31, 2025;
3. Authorize the City Manager to execute Amendment No. 1 to the Agreement for Services with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories extending the term through September 30, 2022;
4. Authorize the City Manager to execute Amendment No. 1 to Contract No. 2004D with Daleo, Inc. authorizing staff to issue call orders through July 31, 2021;
5. Authorize the City Manager to execute Amendment No. 1 to the Agreement for Services

with Document Management Technologies, LLC in an amount not to exceed $230,000 for the period September 5, 2020 through September 5, 2022; and,

6. Authorize the City Manager to add or delete services consistent with the scope of the agreements, and allow future rate adjustments subject to request and justification by contractor, approval by the City, and the appropriation of funds.

2.M 20-736 Action on Approval of a Letter Agreement Amending 2015 Memorandum of Understanding with the Silicon Valley Regional Interoperability Authority for the Silicon Valley Regional Communications System [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

Recommendation: Action on Approval of a Letter Agreement Amending the 2015 MOU with the Silicon Valley Regional Interoperability Authority.

2.N 20-751 Action on Amended and Restated Disposition and Development Agreement with Monroe Street Housing Partners L.P for the Project at 2330 Monroe Street and Related Budget Amendment [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

Recommendation: Alternatives 1 and 2:

1. Adopt a Resolution approving and authorizing the City Manager to execute the Amended and Restated Disposition and Development Agreement with Monroe Street Housing Partners L.P. for the development of 65 units of housing at 2330 Monroe Street and further authorizing the City Manager to execute all other agreements (including a Ground Lease, Loan Agreements, Deeds of Trust, Promissory Notes, and Affordable Housing Agreement) in a form consistent with the DDA and all other documents necessary or convenient to close escrow and implement the purposes and terms of the DDA; and
2. Approve the FY 2020/21 Budget Amendment in the Housing Authority Fund to recognize Developer Contributions of $5,200,000, establish a loan appropriation in the amount of $6,700,000, and decrease the Ending Fund Balance by $1,500,000.

PUBLIC PRESENTATIONS

[This item is reserved for persons to address the Council or authorities on any matter not on the agenda that is within the subject matter jurisdiction of the City or Authorities. The law does not permit action on, or extended discussion of, any item not on the agenda except under special circumstances. The governing body, or staff, may briefly respond to statements made or questions posed, and appropriate body may request staff to report back at a subsequent meeting. Although not required, please submit to the City Clerk your name and subject matter on the speaker card available in the Council Chambers.]

CONSENT ITEMS PULLED FOR DISCUSSION

PUBLIC HEARING/GENERAL BUSINESS

3. **20-804** Action on CARES Act Funding in the Amount of $1.59 Million and San José Settlement Agreement Funds in the Amount of $5 Million and Related Budget Amendments [Council Pillars: Promote and Enhance Economic, Housing, and Transportation Development, and Deliver and Enhance High Quality Efficient Services and Infrastructure]

Recommendation:

1. Approve the allocation of CARES Act funds in the amount of $1,590,000 to the Food Distribution Program, the Small Business Assistance Grant Program, and to reimburse General Fund for past COVID-19 related expenses;
2. Approve the allocation of Santana West Settlement Agreement funds in the amount of $5 million for the Benton Bicycle Lane project, Lick Mill Boulevard Pedestrian Beacons Upgrade, 1601 Civic Center Drive Low Income Housing Development, and Emergency Rental Assistance Program;
3. Approve the use of $1.0 million from the General Fund to provide residential customers with a credit/rebate on their solid waste utility bill;
4. Approve the related FY 2020/21 budget amendments in the General Fund, the Solid Waste Fund, the Other City Departments Operating Grant Trust Fund, the City Affordable Housing Fund, the Streets and Highways Capital Fund, and the Housing and Urban Development Fund as described in Attachment 3; and
5. Direct the City Manager to implement a credit/rebate program consistent with the staff report that reduces the solid waste bill for residential customers.

4. **20-779** Action on an Emergency Ordinance Establishing a Temporary Limit on Third-Party Food Delivery Service Fees During the COVID-19 Emergency [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

Recommendation: Alternatives 1:
Adopt an Emergency Ordinance Establishing a Temporary Limit on Third-Party Food Delivery Service Fees.

5. **20-819** Discussion and direction on the possible relocation of Santa Clara County Courthouse located at 1095 Homestead Road, Santa Clara CA 95050 (APN 269-22-94) including authorizing discussions with the State of California Judicial Council [Council Pillar: Enhance Community Engagement and Transparency]

Recommendation: There is no staff Recommendation.

REPORTS OF MEMBERS AND SPECIAL COMMITTEES

CITY MANAGER/EXECUTIVE DIRECTOR REPORT

20-794 Update on City Council and Stadium Authority Staff Referrals [Council Pillar: Enhance Community Engagement and Transparency]

20-709 Tentative Meeting Agenda Calendar (TMAC) [Council Pillar: Enhance Community Engagement and Transparency]

ADJOURNMENT

The next regular scheduled meeting is on Tuesday evening, September 29, 2020 in the City Hall Council Chambers.

MEETING DISCLOSURES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. If a person wishes to challenge the nature of the above section in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of Santa Clara, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

AB23 ANNOUNCEMENT: Members of the Santa Clara Stadium Authority, Sports and Open Space Authority and Housing Authority are entitled to receive $30 for each attended meeting.

Note: The City Council and its associated Authorities meet as separate agencies but in a concurrent manner. Actions taken should be considered actions of only the identified policy body.

LEGEND: City Council (CC); Stadium Authority (SA); Sports and Open Space Authority (SOSA); Housing Authority (HA); Successor Agency to the City of Santa Clara Redevelopment Agency (SARDA)

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If a member of the public submits a speaker card for any agenda items, their name will appear in the Minutes. If no speaker card is submitted, the Minutes will reflect "Public Speaker."

20-809 **Agenda Date: 9/1/2020**

SUBJECT

Conference with Real Property Negotiators (CC)
Pursuant to Gov. Code § 54956.8
Property: Please see below listing for APNs and addresses
City/Authority Negotiator: Deanna J. Santana, City Manager/Executive Director (or designee)
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20-700 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT
Proclamation of September 2020 as Community Preparedness Month

BACKGROUND
National Preparedness Month was launched in 2004 as part of the Federal Emergency Management Agency (FEMA) sponsored Ready Campaign in an effort to strengthen our country's preparedness capabilities. The national preparedness architecture encompasses prevention, protection, response, and recovery efforts to prepare the United States for all hazards, whether terrorist attacks or natural disasters. Since September 11, 2001, the U.S. Government has taken steps to encourage all citizens to make their own survival preparations. September was chosen as National Preparedness Month, as the tragedies of September 11, 2001 highlighted to the nation the importance of being prepared.

Since its inception, National Preparedness Month has encouraged individuals, families, and communities to take part in practicing preparedness steps, having knowledge about various emergencies that may affect them, and taking steps and getting trained in preparedness and response efforts.

DISCUSSION
National Preparedness Month falls in September each year and emphasizes the need for each community in our nation to be prepared. This year's National Preparedness Month theme is " Disasters Don't Wait. Make Your Plan Today." Even though we are fully involved in responding to the current pandemic for COVID-19, we must remain prepared for all disasters such as earthquakes, floods and the potential for a Public Safety Power Shutoff due to wildland fires. The City of Santa Clara is committed to support National Preparedness Month, realizing the importance of being prepared for all hazards. For more information, visit the City of Santa Clara Emergency Preparedness website <https://www.santaclaraca.gov/services/emergency-services/emergency-preparedness> and register for Alert SCC <https://www.sccgov.org/sites/alertscc/Pages/home.aspx>, Santa Clara County's emergency alert and warning system.

The City Council would like to recognize the month of September 2020 as "Community Preparedness Month" to increase public awareness of the importance of emergency preparedness.

ENVIRONMENTAL REVIEW
The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT
There is no fiscal impact other than staff time.

PUBLIC CONTACT
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Reviewed by: Ruben Torres, Fire Chief
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS
1. Community Preparedness Month Proclamation

City of Santa Clara

Proclamation

WHEREAS, September is National Preparedness Month for all hazards: natural disasters, technological and accidental critical incidents, pandemics, and human-caused threats such as major crime and terrorism; and

WHEREAS, the City of Santa Clara supports resilience in our community; Santa Clara is susceptible to natural disasters including earthquakes, floods, and other large-scale emergencies that we cannot predict; therefore, we strive to prepare our families for the unexpected; and

WHEREAS, when large-scale emergencies occur, law, fire, and emergency medical services will be overwhelmed with priority calls and our City employees will serve as Disaster Service Workers as they have done during the novel coronavirus (COVID-19) pandemic; and

WHEREAS, by working in partnership with our community members on the importance of emergency preparedness, we can minimize the loss of lives, injuries, and help our community return to a sense of normalcy post-emergency; and

WHEREAS, there is a role for neighbors, businesses, and non-government organizations in volunteering or otherwise helping to improve our community's resilience; the time and effort we invest now in preparing will help us and our families navigate through and recover quickly from what may come our way at the most unexpected moment; the time to act is now, before the next disaster strikes; and

WHEREAS, the Federal Emergency Management Agency (FEMA)-sponsored Ready Campaign has set the overarching theme as "Disasters Don't Wait. Make Your Plan Today" for this year's National Preparedness Month; and

WHEREAS, the City of Santa Clara has set the overarching theme as "Santa Clara Ready" for this year's Community Preparedness Month;

NOW, THEREFORE, I, LISA M. GILLMOR, by virtue of the authority vested in me as Mayor, and on behalf of the entire City Council, do hereby proclaim the month of September 2020, as

Community Preparedness Month

in the City of Santa Clara, and urge all residents to join together as we support this annual National Preparedness Month sponsored by the United States Department of Homeland Security and take steps to learn how we can prepare our families now.

Given under my hand and the Seal of the City of Santa Clara, California, this 1st day of September, 2020.

LISA M. GILLMOR
MAYOR
City of Santa Clara

20-739 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT
Recognition of Outstanding Community Service by Local Business Water Spring

BACKGROUND
In March 2020, the State of California and the City of Santa Clara declared states of emergency in response to the novel coronavirus (COVID-19) pandemic. The California Department of Public Health reported that COVID-19 has infected over 673,000 people in California, resulting in over 12,250 fatalities (data as of August 25, 2020). It has also caused severe economic disruption worldwide.

In response, many individuals and organizations have addressed community needs by sharing their time and resources.

DISCUSSION
At its September 1, 2020 meeting, the Santa Clara City Council will recognize the exemplary community service of business owner Sawyer Schafer, who owns Water Spring in the Mariposa Shopping Center, by presenting a Certificate of Special Mayoral Recognition (Attachment 1) to honor his extraordinary efforts.

ENVIRONMENTAL REVIEW
This is an information report only; no action is being taken by the City Council, therefore no environmental review under the California Environmental Quality Act ("CEQA") is required.

FISCAL IMPACT
There is no fiscal impact to the City other than staff time.

PUBLIC CONTACT
Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

Reviewed by: Julie Minot, Executive Assistant to the Mayor and City Council
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS
1. Certificate of Special Mayoral Recognition

Santa Clara

Certificate of Special Mayoral Recognition

On behalf of the City Council, this certificate is presented to

Sawyer Schafer

Owner, Water Spring

in recognition for his exemplary community service during the COVID-19 Public Health Crisis by working tirelessly beyond business hours, ensuring a supply of safe drinking water to Water Spring customers

on this 1st day of September 2020.



Lisa M. Gillmor

LISA M. GILLMOR
MAYOR
City of Santa Clara

20-569 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Verbal Report from City Manager regarding COVID-19 Pandemic and Presentation of Healthy Meals CPOD Video [Council Pillar: Enhance Community Engagement and Transparency]

20-17 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Board, Commissions and Committee Minutes [Council Pillar: Enhance Community Engagement and Transparency]

RECOMMENDATION

Note and file the Minutes of:

Planning Commission Meeting - February 26, 2020
Planning Commission Meeting - April 8, 2020

City of Santa Clara

Meeting Minutes

Planning Commission

02/26/2020 | **6:00 PM** | **City Hall Council Chambers**

6:00 PM REGULAR MEETING

Call to Order

Chair Becker called the meeting to order at 6:02 p.m.

Pledge of Allegiance and Statement of Values

Roll Call

Present 7 - Commissioner Steve Kelly, Commissioner Yuki Ikezi, Commissioner Sudhanshu Jain, Vice Chair Lance Saleme, Chair Anthony Becker, Commissioner Nancy A. Biagini, and Commissioner Priya Cherukuru

DECLARATION OF COMMISSION PROCEDURES

CONTINUANCES/EXCEPTIONS

None.

CONSENT CALENDAR

Commissioner Jain pulled items 1.B and 1.C.

A motion was made by Commissioner Ikezi, seconded by Commissioner Cherukuru to approve staff recommendation.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

1.A 20-85 Consent: Action on Use Permit to expand the sale of alcoholic beverages (existing ABC License Type 47) and a new outdoor dining patio area at the Cheesecake Factory restaurant located at 3041 Stevens Creek Boulevard.

Recommendation: Adopt a resolution approving a Use Permit for expansion of sale of alcoholic beverages (existing ABC License Type 47) in conjunction with the approval of a new outdoor dining patio area at the existing Cheesecake Factory restaurant located at 3041 Stevens Creek Boulevard, subject to conditions of approval.

1.B 20-183 Consent: Action on Use Permit Amendment for ABC License Type 47 for

Fleming's Prime Steakhouse located at 2762 Augustine Drive

Recommendation: Adopt a Resolution approving a Use Permit Amendment for the sale and service of alcohol (ABC License Type 47) in a newly expanded restaurant (Fleming's Prime Steakhouse), subject to conditions of approval.

Commissioner Jain pulled this item for further clarification.

A motion was made by Commissioner Jain, seconded by Commissioner Kelly to approve staff recommendation.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

1.C 20-242 Consent: Responses to Questions from the January 29, 2020 Housing Presentation

Recommendation: Note and file this report.

Commissioner Jain pulled this item for further clarification.

A motion was made by Commissioner Jain, seconded by Commissioner Biagini to approve staff recommendation.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

PUBLIC PRESENTATIONS

None.

PUBLIC HEARING

2. 20-87 Public Hearing: Action on a Variance to the lot coverage and covered parking requirements associated with an addition at 655 Jefferson Street

Recommendation: Alternative 1: Adopt a resolution denying the Variance to allow an addition, with a 43.2% lot coverage and a one car covered parking space.

Commissioner Jain recused himself from this item due to the proximity of his residence to this property.

Development Review Officer Gloria Sciara provided a PowerPoint presentation.

Rob Mayer provided a presentation on behalf of the Applicant.
Wayne Machado, Applicant, spoke.

Public Speaker:
Adam Thompson, neighbor to the Applicant, spoke in favor of the project.

A motion was made by Commissioner Cherukuru, seconded by Commissioner Kelly, to close public hearing.

Aye: 6 - Commissioner Kelly, Commissioner Ikezi, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

Recused: 1 - Commissioner Jain

A motion was made by Commissioner Biagini, seconded by Commissioner Cherukuru to approve the project due to the following five findings:

1. The project is categorically exempt from CEQA pursuant to Guidelines Section 15301(e)(1), Existing Facilities, because the addition will result in an expansion of less than 50% of the existing floor area;
2. There are unusual conditions applying to the land and existing building, in that the 40' wide lot is significantly narrower than the prescribed width for the R1-6L designation (60'); the house has an extremely narrow bedroom at only 7'8"; and the house has an attached garage, which is an unusual design for the Old Quad neighborhood;
3. The variance is necessary to the preservation and enjoyment of substantial property rights of the Applicant, because the narrow lot would make it infeasible to both install a driveway and expand the house;
4. The variance shall not adversely affect the health, safety, comfort or welfare of the neighbors, in that the addition will not change the visible appearance of the home from the street; the scale and massing of the proposed expansion would be compatible with the neighborhood in the opinion of the neighboring residents; and in the opinion of the Historical and Landmarks Commission, the expansion would not adversely affect the character of nearby historic properties; and
5. The variance would be in keeping with the purposes of Zoning Ordinance, in that Chapter 18.108 of the Zoning Ordinance recognizes that practical difficulties and unnecessary hardships, such as those described by the applicant, justify the granting of a variance.

Aye: 6 - Commissioner Kelly, Commissioner Ikezi, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

Recused: 1 - Commissioner Jain

REPORTS OF COMMISSION/BOARD LIAISON AND COMMITTEE:

1. Announcements/Other Items

   Chair Becker announced that he is encouraging everyone to get out and vote.
   Vice Chair Saleme encouraged the Commission watch the Town Hall meeting which was held earlier in the week.
   Commissioner Cherukuru noted she wants our jurisdiction to be looked upon favorably.

2. Architectural Committee

   Vice Chair Saleme provided updates.

3. Commissioner Travel and Training Reports, Requests to attend Trainings

   Commissioner Jain requested updates on upcoming speakers.
   Planning Manager Reena Brilliot provided updates.
   Commissioner Cherukuru suggested the topic of Local Planning for Energy for upcoming speakers.

DIRECTOR OF COMMUNITY DEVELOPMENT REPORTS:

1. Planning Commission Budget Update

   Development Review Officer Gloria Sciara provided budget updates.

2. Upcoming Agenda Items

   Planning Manager Reena Brilliot provided updates.

3. City Council Actions

   Commissioner Jain requested a speaker on Vision Zero Policy and requested that Sustainability Manager Michelle Templeton speak at an upcoming meeting.

ADJOURNMENT:

Chair Becker adjourned the meeting in memory of Isaiah Pacheco, a student at Santa Clara High School, who was killed earlier in the week.

A motion was made by Commissioner Kelly, seconded by Commissioner Cherukuru to adjourn the meeting.
Meeting was adjourned at 7:25 p.m.

The next regularly scheduled meeting is on Wednesday, March 25,

2020.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

Draft

City of Santa Clara

Meeting Minutes

Planning Commission

04/08/2020 | **6:00 PM** | **City Hall Council Chambers**

Recission of Prior Cancellation Notice: The City previously issued a cancellation notice for this meeting on March 16, 2020. The cancellation notice is hereby rescinded.

COVID-19 NOTICE - Consistent with the California Governor's Executive Order No. N-29-20 and the Santa Clara County Health Officer's March 31, 2020 Shelter in Place Order which supersedes the March 16, 2020 Order, Planning Commissioners will be teleconferencing from remote locations.

Members of the public may view and listen to the meeting via City of Santa Clara Channel 15, City of Santa Clara Facebook, and City of Santa Clara Youtube Channel.

Public Comments prior to meeting: Comments may be submitted prior to the meeting via email to planning@santaclaraca.gov no later than noon on the day of the meeting; and also via Ecomment. Public Comments may also be made at the meeting during the Public Comment period in person as well as via eComment.

6:00 PM REGULAR MEETING

Call to Order

Chair Becker called the meeting to order at 6:03 p.m. and thanked the City and first responders for their assistance to residents during COVID-19 and asked for a moment of silence to acknowledge those that have lost their lives during this time.

Pledge of Allegiance and Statement of Values

Roll Call

Present 7 - Commissioner Steve Kelly, Commissioner Yuki Ikezi, Commissioner Sudhanshu Jain, Vice Chair Lance Saleme, Chair Anthony Becker, Commissioner Nancy A. Biagini, and Commissioner Priya Cherukuru

DECLARATION OF COMMISSION PROCEDURES

Chair Becker read the Declaration of Commission Procedures.

Assistant City Attorney Alexander Abbe explained, in response to a question from Commissioner Ikezi, that although the Brown Act ordinarily requires a majority of Commissioners to be physically present to conduct a meeting, Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 suspended the physical appearance requirement during the COVID-19 pandemic. This allows Commissioners to maintain a quorum while participating remotely.

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CONTINUANCES/EXCEPTIONS

None.

CONSENT CALENDAR

1. No Items

PUBLIC PRESENTATIONS

PUBLIC HEARING

Commissioner Jain disclosed he met previously with the Applicant. **Vice Chair Saleme** disclosed he attended a virtual meeting with the Applicant. **Commissioner Ikezi** also disclosed she had met with Applicant.

2. 20-111 Public Hearing: Action on a Rezone of the property located at 2200 Lawson Lane to allow for the construction of an additional 241,419 square foot, five-story office building on an existing office campus

Recommendation: Alternatives 1 and 2:
That the Planning Commission:
1. Adopt a resolution to recommend the City Council adopt the Addendum to the 2008 Final Environmental Impact Report and 2013 Initial Study/Mitigated Negative Declaration for the Lawson Lane West Campus Expansion Project.

2. Adopt a resolution to recommend the City Council approve a rezoning from Planned Development (PD) to Planned Development (PD) to construct a 241,419 square foot five-story office building and 670 square foot addition to a common building and expand a six-story parking garage to provide a total of 1,445 parking spaces on the West Lawson Lane Campus located at 2200 Lawson Lane.

Associate Planner Debby Fernandez provide the staff Powerpoint presentation.

Gary Black, Transportation Expert, Hexagon, spoke regarding TDM thresholds and significant impacts. For this project, the amount of traffic added is below the threshold and is not considered a significant impact.

Julie Wright, **David Powers & Associates,** provided clarification on CEQA addendum - no impacts are greater or more severe than original document.

Assistant City Attorney Alexander Abbe spoke and in response to a question from Commissioner Cherukuru about the appropriateness of utilizing an environmental addendum, clarified that CEQA Guidelines Section 15162 does not allow the City to prepare a new environmental document after an EIR is certified or an MND is finalized unless there are substantial changes to a project, and the modifications before the Commission did not meet the requirements for substantial changes. Mr. Abbe also explained that he had reviewed the CEQA addendum and was comfortable with proceeding with the addendum.

Applicant Michael You, Sobrato Organization provide a Powerpoint presentation.
Evan Sokolik, Arctech, **representing the Applicant** provided a Powerpont presentatiorn.

Commissioners asked questions regarding TDM measures.

Meeting went into Recess at 7:40 p.m. and reconvened at 7:45 p.m.

Staff read public comments form **Sam Liu, Newnext Technology,** expressing concerns regarding environmental issues and traffic impacts and recommended the project not be recommended at this time.

A motion was made by Commissioner Kelly, seconded by Commissioner Jain, to close public hearing.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

A motion was made by Commissioner Jain, seconded by Commissioner Ikezi to approve staff recommendation Alternative 1.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

A motion was made by Commissioner Jain, seconded by Commissioner Biagini to approve staff recommendation Alternative 2 with the following changes to 4 conditions:

1. C21 - require that 6% of parking spaces be 40-amp L2 EV charging facilities, and an additional 9% of spaces be pre-wired for 40-amp L2 electrical vehicle charging facilities
2. C4 - modified to add 'Gold' after LEED
3. E18 - increased the total number of bicycle parking spaces to 74 Class I bicycle spaces and 25 Class II bicycle spaces, and to also require that electrical outlets be provided in the bicycle storage rooms.
4. C20 - the measured TDM reduction will be a minimum of 20%.

Commissioner Ikezi included an amendment to the motion recommending that the Council ask
the applicant to consider voluntarily implementing a reduction in VMT of 20 percent through TDM
measures across the entire campus, and not solely on Phase 2 (the East Campus) and that
the applicant to be ready to discuss their recommendation when the project is presented to the City Council.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

3. 20-353 Action on an Amendment to Zoning Code Chapter 18.102 - Regulation of Marijuana (Cannabis)

Recommendation: Alternative 1:
Recommend that the City Council adopt the Ordinance amending Chapters 18.06 ("Definitions") and 18.102 ("Regulation of Marijuana") of Title 18 ("Zoning") of "The Code of the City of Santa Clara, California" to prohibit all commercial cannabis activity.

Development Review Officer Gloria Sciara provided the staff Powerpont presentation.

Following staff presentation, the Commission discussed possible modifications to the proposed ordinance and their concerns that the prohibition would result in a loss of potential revenue for the City. The Commission also discussed the implications of the State legalization, concern for youth access to cannabis, the conflict arising from the tacit promotion of drug use for recreational purposes (by creating a permit process) given the City's long standing DARE program, and questions on the estimated costs for enforcement.

The meeting went into recess at 9:28 p.m. and reconvened at 9:33 p.m.

Staff read a comment received from the public Rob Jerdonek in support of the ordinance to prohibit commercial cannabis activity.

Following their discussion, the Commission supported the proposed ordinance to prohibit commercial cannabis activity (6-1-0), but with the stipulation that the ordinance be revisited prior to February 28, 2021. They also noted that potential revenue or cost savings could be achieved while addressing other concerns by limiting the commercial activity to retail storefronts only.

A motion was made by Commissioner Jain, seconded by Commissioner Cherukuru to close public hearing

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

A motion was made by Commissioner Ikezi, seconded by Commissioner Cherukuru to approve staff recommendation

Aye: 3 - Commissioner Ikezi, Commissioner Biagini, and Commissioner Cherukuru

Nay: 4 - Commissioner Kelly, Commissioner Jain, Vice Chair Saleme, and Chair Becker

A motion was made by Commissioner Jain, seconded by Commissioner Biagini to add a sunset clause to Section 18.102.010 of the proposed ordinance of February 28, 2021.

A friendly amendment was proposed by Commissioner Ikezi to extend the date to 2022, but the amendment was not accepted by the maker of the motion (Commissioner Jain).

The vote was then taken on Commissioner Jain's original motion:

Aye: 6 - Commissioner Kelly, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

Nay: 1 - Commissioner Ikezi

A motion was made by Commissioner Jain, seconded by Commissioner Biagini to recommend that the Council consider allowing cannabis sales upon expiration of the sunset clause, but limited to only retail dispensaries so as to reduce the burden on the Police Department.

Aye: 5 - Commissioner Kelly, Commissioner Jain, Vice Chair Saleme, Chair Becker, and Commissioner Biagini

Nay: 2 - Commissioner Ikezi, and Commissioner Cherukuru

A motion was made by Commissioner Jain, seconded by Vice Chair Saleme that the Council consider authorizing retail sales, but that such cannabis sales be limited to non-cash operations

Aye: 2 - Commissioner Jain, and Vice Chair Saleme

Nay: 5 - Commissioner Kelly, Commissioner Ikezi, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

REPORTS OF COMMISSION/BOARD LIAISON AND COMMITTEE:

1. Announcements/Other Items

2. Architectural Committee

3. Commissioner Travel and Training Reports, Requests to attend Trainings

Commissioner Biagini requested to report on APA attendance at next meeting.

Vice Chair Saleme asked if refunds were made for events that were canceled, staff confirmed there was a negligible amount refunded for a conference. Commissioner Kelly declined attendance at the upcoming National Planning Conference April 25 - 28, 2020.

DIRECTOR OF COMMUNITY DEVELOPMENT REPORTS:

1. Planning Commission Budget Update

Planning Manager Reena Brilliot updated Commissioners on possible upcoming trainings:

1. Watchery Design - parking design, parking structures of the future
2. ULI - cost of development
3. Form Based Code

A motion was made by Commissioner Jain, seconded by Commissioner Cherukuru to authorize up to $5.000 for one of these trainings

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

2. Upcoming Agenda Items

Development Review Officer Gloria Sciara provided updates.

3. City Council Actions

ADJOURNMENT:

A motion was made by Commissioner Jain, seconded by Commissioner Biagini, to adjourn the meeting.

The meeting adjourned at 10:37 p.m.

The next meeting is Wednesday, April 22, 2020 at 6 p.m.

Aye: 7 - Commissioner Kelly, Commissioner Ikezi, Commissioner Jain, Vice Chair Saleme, Chair Becker, Commissioner Biagini, and Commissioner Cherukuru

20-701 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on Bills and Claims Report (CC, SA, HA) for the period July 25th, 2020 - August 7th, 2020 [Council Pillar: Enhance Community Engagement and Transparency]

BACKGROUND

Disbursements made by the City are based on invoices submitted for payment. Prior to payment, staff reviews all disbursement documents to ensure they are reflective of the goods or services provided. Invoices are usually paid within 30 days of receipt of an accurate invoice. As the final step, the City Auditor, or her designee verifies all documents before payment is issued. Payments are issued through accounts payable checks and wire transfers. It's important to note that items that pertain to the Stadium Authority are billed to the Stadium Manager (ManCo) to pay on behalf of the Stadium Authority for Non-NFL events and the 49ers for NFL events.

The Bills and Claims Report represents the cash disbursements required for operations of the City during the period. The report reflects the payment date, invoice number, description of the payment, funding source, and payment amount for all invoices. The budget control is set by the City Council through the budget adoption process.

DISCUSSION

Significant expenditures in this time period include:

- Payment to EthosEnergy Field Services LLC; in the amount of $2,903,127 for major overhaul of Steam Turbine engine at Donald Von Raesfeld (DVR) Power Plant.
- Payment to Santa Clara Valley Water District in the amount of $1,317,872 for May 2020 Pump Tax, a groundwater charge that is used to pay for the protection and augmentation of water supplies in the basin.
- Payment to Mission Trail Waste Systems in the amount of $1,130,043 for May, June and July 2020 garbage services.
- Payment to Unisys Corporation in the amount of $746,708 for June 2020 information technology (IT) services.
- Payment to US Bank National Association in the amount of $631,342 for 10th billing of FY20-21 Central Valley Project operations and maintenance activities on existing capital equipment.
- Payment to MSR Public Power Agency in the amount of $518,423 for June 2020 Big Horn power purchase.

Payments to ManCo are not included in the City's Bills and Claims report as they are currently reported through a separate Stadium Authority Bills and Claims report. Stadium Authority related payments in the City's Bills and Claims report include general administrative, materials, and supplies

expenses of approximately $127,637. Included in this amount is $123,921 to Alliant Insurance Services Inc., for FY2020-21 Accidental Death and Dismemberment Policy for the "double-badgers" employed by the Police Department from other public safety agencies to provide public safety for special events at the Stadium. These costs are budgeted in General Fund and reimbursable by 49ers/Manco. A separate Stadium Authority Board action is being prepared for full disclosure and transparency of these expenditures.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

FISCAL IMPACT

The expenditures of $12,434,451 were appropriated to various funds with the adoption of the Fiscal Year 2019/20 and 2020/21 Budget, as amended.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

Approve the list of Bills and Claims for July 25, 2020 - August 7, 2020.

Reviewed by: Kenn Lee, Director of Finance
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Bills and Claims Approved for Payment Report

City of Santa Clara
List of All Bills and Claims Approved for Payment

Run Date 7/30/2020
Run Time 9:02:29 AM

Sorted by Payment Number

Payment No: 016598

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CARIE T ROSE	00476147	07/12/20-07/25/20DR	WAGE ATTACHMENT B2016	Payroll Liability&ClearingAcct	1,153.85
				Total for Payment No.:		1,153.85

Payment No: 016599

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	WORKTERRA	00476155	07/12/20-07/25/20	FLEX SPENDING DEP/HEALTH B2016	Payroll Liability&ClearingAcct	5,209.12
07/31/2020	WORKTERRA	00476155	07/12/20-07/25/20	FLEX SPENDING DEP/HEALTH B2016	Payroll Liability&ClearingAcct	7,574.71
				Total for Payment No.:		12,783.83

Payment No: 016600

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ACT ENVIRO	00475229	288954	ANALYTICALS	Electric Utility	1,250.00
07/31/2020	ACT ENVIRO	00475229	288954	ENVIRONMENTAL SERVICE-CHARGE	Electric Utility	169.52
07/31/2020	ACT ENVIRO	00475229	288954	8 HR LABOR CHEMIST 7/1/20	Electric Utility	536.00
07/31/2020	ACT ENVIRO	00475229	288954	SUPPLIES	Electric Utility	150.00
07/31/2020	ACT ENVIRO	00475229	288954	HAND PUMP LARGE	Electric Utility	50.00
07/31/2020	ACT ENVIRO	00475229	288954	PPE GEAR LEVEL D	Electric Utility	8.00
07/31/2020	ACT ENVIRO	00475229	288954	GEAR TRUCK (BOB TAIL) 7/1/2020	Electric Utility	125.00
07/31/2020	ACT ENVIRO	00475425	289106	ANALYTICALS	Electric Utility	1,250.00
07/31/2020	ACT ENVIRO	00475425	289106	ENVIRONMENTAL SERVICE CHARGE	Electric Utility	169.52
07/31/2020	ACT ENVIRO	00475425	289106	8 HR LABOR CHEMIST 7/8/20	Electric Utility	536.00

07/31/2020	ACT ENVIRO	00475425	289106	SUPPLIES	Electric Utility	150.00
07/31/2020	ACT ENVIRO	00475425	289106	HAND PUMP LARGE	Electric Utility	50.00
07/31/2020	ACT ENVIRO	00475425	289106	PPE GEAR LEVEL D	Electric Utility	8.00
07/31/2020	ACT ENVIRO	00475425	289106	GEAR TRUCK (BOB TAIL) 7/8/20	Electric Utility	125.00
07/31/2020	ACT ENVIRO	00475627	290102	ANALYTICALS	Electric Utility	1,000.00
07/31/2020	ACT ENVIRO	00475627	290102	ENVIRONMENTAL SERVICE CHARGE	Electric Utility	149.52
07/31/2020	ACT ENVIRO	00475627	290102	8 HRS CHEMIST 7/15/20	Electric Utility	536.00
07/31/2020	ACT ENVIRO	00475627	290102	SUPPLIES	Electric Utility	150.00
07/31/2020	ACT ENVIRO	00475627	290102	HAND PUMP LARGE	Electric Utility	50.00
07/31/2020	ACT ENVIRO	00475627	290102	PPE GEAR LEVEL D	Electric Utility	8.00
07/31/2020	ACT ENVIRO	00475627	290102	GEAR TRUCK (BOB TAIL) 7/15/20	Electric Utility	125.00
				Total for Payment No.:		6,595.56

Payment No: 016601

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ALL GUARD ALARM SYSTEMS INC	00475451	J25071	FIRE STATION 8 BURGLAR ALARM	General Fund	690.00
				Total for Payment No.:		690.00

Payment No: 016602

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ALLIANT INSURANCE SVCS INC	00476063	1397467	LAW ENFORCEMENT RENEWAL	General Fund	123,920.65
07/31/2020	ALLIANT INSURANCE SVCS INC	00476064	1398320	SLIP	Special Liability Insurance	83,054.30
				Total for Payment No.:		206,974.95

Payment No: 016603

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ANIXTER INC.	00475245	4611590-01	TAPE VINYL TAPE, 88 SUPER	Electric Utility	10,057.65
				Total for Payment No.:		10,057.65

Payment No: 016604

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ASPEN ENVIRONMENTAL GROUP	00475756	3360.001-20	ENVIRONMENTAL SERVICES FEB20	Electric Utility Construction	278.56
				Total for Payment No.:		278.56

Payment No: 016605

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BADGER METER INC	00475466	80056006	2020 JUNE LARGE METER AMI SRVC	Water Utility	45.00
				Total for Payment No.:		45.00

Payment No: 016606

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BAKER & TAYLOR BOOKS	00475223	2035298359	1233 AD BK	General Fund	135.68
				Total for Payment No.:		135.68

Payment No: 016607

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BAYWA R.E. SOLAR PROJECTS, LLC	00475235	66381-03/66317-03 CPV JUN-2020	PBI MAY2020 PYMT #27 PR II TWR	Elec OperatingGrant Trust Fund	19,046.34
				Total for Payment No.:		19,046.34

Payment No: 016608

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BEST BEST & KRIEGER LLP	00476146	881916	LEGAL SERVICES	Special Liability Insurance	230.54
				Total for Payment No.:		230.54

Payment No: 016609

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

07/31/2020	BOATMAN-JACKLIN INC.	00475237	62112-02 CPV JUN-2020	COMMERCIAL REBATE JUNE2020	Elec OperatingGrant Trust Fund	1,676.79
				Total for Payment No.:		1,676.79

Payment No: 016610

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BROWNING FERRIS INDUSTRIES	00475568	M200500	MAY 2020 YARD TRIMMINGS COMPOS	Water Utility	19,538.41
07/31/2020	BROWNING FERRIS INDUSTRIES	00475568	M200500	MAY 2020 YARD TRIMMINGS COMPOS	Solid Waste Program	131.91
07/31/2020	BROWNING FERRIS INDUSTRIES	00475568	M200500	MAY 2020 YARD TRIMMINGS COMPOS	Solid Waste Program	45,000.00
07/31/2020	BROWNING FERRIS INDUSTRIES	00475568	M200500	MAY 2020 GARBAGE DISPOSAL CHAR	Solid Waste Program	187,606.21
				Total for Payment No.:		252,276.53

Payment No: 016611

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BURKE, WILLIAMS & SORENSEN LLP	00476066	256104	LEGAL SERVICES	Electric Utility Construction	324.00
				Total for Payment No.:		324.00

Payment No: 016612

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CAROLYN SUSIE BERLIN	00475518	10679	LEGAL SERVICES JUN20	Electric Utility	1,833.00
07/31/2020	CAROLYN SUSIE BERLIN	00475520	10684(d)	LEGAL SERVICES (NCGC) JUN20	Electric Utility	351.00
				Total for Payment No.:		2,184.00

Payment No: 016613

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CINTAS CORP #630	00475326	1901419802	JCKT/TNF/RDG	General Fund	137.27
07/31/2020	CINTAS CORP #630	00475326	1901419802	FREIGHT	General Fund	16.95
07/31/2020	CINTAS CORP #630	00475329	4055372778	UNIFORMS	General Fund	412.01
07/31/2020	CINTAS CORP #630	00475329	4055372778	UNIFORMS	General Fund	4.51

07/31/2020	CINTAS CORP #630	00475403	630822953	UNIFORMS	General Fund	67.54
07/31/2020	CINTAS CORP #630	00475404	630822954	CLEANING SUPPLIES	General Fund	36.47
07/31/2020	CINTAS CORP #630	00475405	4040604441	UNIFORMS	General Fund	67.53
07/31/2020	CINTAS CORP #630	00475406	4040604504	CLEANING SUPPLIES	General Fund	36.47
07/31/2020	CINTAS CORP #630	00475407	4042812600	CLEANING SUPPLIES	General Fund	36.48
07/31/2020	CINTAS CORP #630	00475408	4042812607	CLEANING SUPPLIES	General Fund	36.47
07/31/2020	CINTAS CORP #630	00475409	4043789004	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475410	4043789053	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475411	4044369322	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475412	4044369327	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475413	4045059029	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475414	4045059078	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475415	4045651547	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475416	4045651468	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475417	4046105294	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475418	4046355130	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475419	4046355189	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475461	4046909681	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475462	4047545990	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475463	4047546044	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475464	4048063851	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475465	4048063883	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475467	4055560374	2020 JUL WATER UNIFORM SERVICE	Water Utility	316.57
07/31/2020	CINTAS CORP #630	00475467	4055560374	2020 JUL WATER UNIFORM SERVICE	Sewer Utility	316.57
07/31/2020	CINTAS CORP #630	00475468	4048625977	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475469	4048626018	UNIFORMS	General Fund	68.56
07/31/2020	CINTAS CORP #630	00475470	4049243885	UNIFORMS	General Fund	70.09
07/31/2020	CINTAS CORP #630	00475471	4049243924	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475472	4049244414	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475473	4049808039	UNIFORMS	General Fund	68.56

07/31/2020	CINTAS CORP #630	00475474	4049808056	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475475	4049809541	CLEANING SUPPLIES	General Fund	37.14
07/31/2020	CINTAS CORP #630	00475476	4049809561	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475477	4049809654	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475478	4050435278	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475479	4050435812	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475480	4050435825	CLEANING SUPPLIES	General Fund	37.14
07/31/2020	CINTAS CORP #630	00475481	4050948759	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475482	4050950678	CLEANING SUPPLIES	General Fund	37.14
07/31/2020	CINTAS CORP #630	00475483	4050950707	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475484	4051497238	CLEANING SUPPLIES	General Fund	37.14
07/31/2020	CINTAS CORP #630	00475485	4051497267	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475486	4051496555	CLEANING SUPPLIES	General Fund	37.13
07/31/2020	CINTAS CORP #630	00475488	4051497313	UNIFORMS	Cemetery	35.00
07/31/2020	CINTAS CORP #630	00475489	4055985132	UNIFORMS	General Fund	401.75
07/31/2020	CINTAS CORP #630	00475489	4055985132	UNIFORMS	General Fund	4.51
				Total for Payment No.:		3,572.95

Payment No: 016614

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CINTAS CORP #630	00475431	4055074643	UNIFROMS	General Fund	82.30
07/31/2020	CINTAS CORP #630	00475432	4055673292	UNIFORMS	General Fund	82.30
				Total for Payment No.:		164.60

Payment No: 016615

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CINTAS FIRE PROTECTION #F44	00474992	0F44731532	FIRE EXT SERVICE FLEET NONTAX	Fleet Operation Fund	528.70
07/31/2020	CINTAS FIRE PROTECTION #F44	00474992	0F44731532	FIRE EXT SERVICE FLEET TAXABLE	Fleet Operation Fund	327.02
07/31/2020	CINTAS FIRE PROTECTION #F44	00475126	0F44731790	EXT SERVICE CITY HALL EAST NT	General Fund	363.59

07/31/2020	CINTAS FIRE PROTECTION #F44	00475126	0F44731790	EXT SERVICE CITY HALL EAST TAX	General Fund	220.10
				Total for Payment No.:		1,439.41

Payment No: 016616

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	COUNTY OF SANTA CLARA	00475808	1800073536	Bureau	General Fund	233.82
07/31/2020	COUNTY OF SANTA CLARA	00475808	1800073536	Services	General Fund	11,145.14
07/31/2020	COUNTY OF SANTA CLARA	00475812	1800073520	SLETS	General Fund	7,185.12
				Total for Payment No.:		18,564.08

Payment No: 016617

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DALEO INC	00475565	SV895-01	2004D AERIAL FIBER MASTER CONT	Electric Utility Construction	4,948.00
07/31/2020	DALEO INC	00475566	SV894-01	2004D AERIAL FIBER MASTER CONT	Electric Utility Construction	5,566.50
07/31/2020	DALEO INC	00475567	SV892-01	2004D AERIAL FIBER MASTER CONT	Electric Utility Construction	1,855.50
				Total for Payment No.:		12,370.00

Payment No: 016618

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DIESEL DIRECT WEST	00475257	83637460	STRT CORP YARD TANK#53	Fleet Operation Fund	17,901.28
				Total for Payment No.:		17,901.28

Payment No: 016619

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ECONOLITE CONTROL PRODUCTS, INC	00476003	30910	Inspection and testing of Sign	Streets And Highways	5,400.00
				Total for Payment No.:		5,400.00

Payment No: 016620

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ELECTRICAL CONSULTANTS INC	00475523	88837	TRANSMISSI ENG SRV JUN20	Electric Utility Construction	5,747.00
				Total for Payment No.:		5,747.00

Payment No: 016621

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	EMPLOYMENT SCREENING RESOURCES	00475931	211266	TWO REGULAR HIRES	General Fund	130.00
				Total for Payment No.:		130.00

Payment No: 016622

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ETHOSENERGY	00476015	IN71369	FIRM FIXED COST: ONSITE SERVI	Electric Utility Construction	15,226.77
07/31/2020	ETHOSENERGY	00476015	IN71369	FIRM FIXED COST: ONSITE SERVI	Electric Utility Construction	21,624.94
07/31/2020	ETHOSENERGY	00476015	IN71369	RETENTION	Electric Utility Construction	-7,370.35
07/31/2020	ETHOSENERGY	00476058	IN71293	MATERIALS, SERVICES AND REPAIR	Electric Utility Construction	240,227.93
07/31/2020	ETHOSENERGY	00476058	IN71293	RETENTION	Electric Utility Construction	-48,045.59
07/31/2020	ETHOSENERGY	00476059	IN71405	FIRM FIXED COST: ONSITE SERVI	Electric Utility Construction	419,582.06
07/31/2020	ETHOSENERGY	00476059	IN71405	MATERIALS, SERVICES AND REPAIR	Electric Utility Construction	1,176,702.98
07/31/2020	ETHOSENERGY	00476059	IN71405	ADDITIONAL MATERIALS, SERVICES	Electric Utility Construction	1,374,684.94
07/31/2020	ETHOSENERGY	00476059	IN71405	RETENTION	Electric Utility Construction	-574,762.20
07/31/2020	ETHOSENERGY	00476129	IN71370	ADDITIONAL MATERIALS, SERVICES	Electric Utility Construction	356,569.00
07/31/2020	ETHOSENERGY	00476129	IN71370	RETENTION	Electric Utility Construction	-71,313.80

				Total for Payment No.:		2,903,126.68

Payment No: 016623

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	FLYNN RESOURCE CONSULTANTS INC	00475513	1413	CAISO,CRR,PG&E,LITIG MAY-JUN20	Electric Utility	141,572.50
				Total for Payment No.:		141,572.50

Payment No: 016624

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GARDENLAND POWER EQUIPMENT	00475742	782811	SUPPLIES - P&B	General Fund	104.87
				Total for Payment No.:		104.87

Payment No: 016625

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GEI CONSULTANTS, INC.	00475515	3074195	BUCKS CREEK CEQA JUN20	Electric Utility Construction	6,301.08
07/31/2020	GEI CONSULTANTS, INC.	00475515	3074195	PRJ MGMT BUCKS CREEK JUN20	Electric Utility Construction	662.49
				Total for Payment No.:		6,963.57

Payment No: 016626

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GRAINGER	00475342	9576586466	EAR MUFFS	General Fund	201.47
07/31/2020	GRAINGER	00475345	9577932974	FUNNEL AND FLEXIBLE SPOUT	General Fund	17.19
07/31/2020	GRAINGER	00475347	9576764717	DISPOSABLE GLOVES	General Fund	215.39
				Total for Payment No.:		434.05

Payment No: 016627

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

07/31/2020	GRAINGER-SAN JOSE	00474994	9557067551	P100 PREFILTER HOLDER	Other City Dept Op Grant Fund	32.39
07/31/2020	GRAINGER-SAN JOSE	00474995	9557543973	P100 PREFILTERS	Other City Dept Op Grant Fund	48.59
07/31/2020	GRAINGER-SAN JOSE	00474996	9557977197	SUNDSTROM STORAGE BOXES	Other City Dept Op Grant Fund	266.24
07/31/2020	GRAINGER-SAN JOSE	00474997	9561547226	GAFFERS TAPE	Other City Dept Op Grant Fund	98.06
07/31/2020	GRAINGER-SAN JOSE	00475250	9470279697	SAFETY GLASSES	Electric Utility	37.46
07/31/2020	GRAINGER-SAN JOSE	00475251	9507142959	C BATTERIES	Electric Utility	35.44
07/31/2020	GRAINGER-SAN JOSE	00475251	9507142959	C BATTERIES	Electric Utility	35.45
07/31/2020	GRAINGER-SAN JOSE	00475253	9513042813	GOGGLES	Sewer Utility	24.46
07/31/2020	GRAINGER-SAN JOSE	00475254	9538556250	HAND MOISTURIZER	Water Utility	28.12
07/31/2020	GRAINGER-SAN JOSE	00475256	9538942104	HAND SANITIZER	Water Utility	16.87
07/31/2020	GRAINGER-SAN JOSE	00475258	9561905762	SAFETY GLASSES	Other City Dept Op Grant Fund	57.69
07/31/2020	GRAINGER-SAN JOSE	00475265	9577501407	EXPANSION ANCHOR	Electric Utility	246.46
07/31/2020	GRAINGER-SAN JOSE	00475266	9577529721	HEX HEAD LAG SCREWS	Electric Utility	141.76
07/31/2020	GRAINGER-SAN JOSE	00475267	9579279408	LIME MULTI BAND	Electric Utility	227.75
07/31/2020	GRAINGER-SAN JOSE	00475267	9579279408	LIME MULTI BAND	Electric Utility	227.75
07/31/2020	GRAINGER-SAN JOSE	00475268	9582171048	ANGLE GRINDER & CUT OFF WHEELS	Sewer Utility	200.84
07/31/2020	GRAINGER-SAN JOSE	00475270	9548905794	PARTS- SHOP USE	Fleet Operation Fund	935.23
07/31/2020	GRAINGER-SAN JOSE	00475271	9557144574	CREDIT- PART NOT RECVD	Fleet Operation Fund	-467.61
07/31/2020	GRAINGER-SAN JOSE	00475272	9567967915	PARTS-V# 3440 PD BY DEPT	Water Utility	881.16
07/31/2020	GRAINGER-SAN JOSE	00475273	9575189627	PARTS- SHOP USE	Fleet Operation Fund	32.22
07/31/2020	GRAINGER-SAN JOSE	00475433	9568284757	CITY HALL BERMAN WIRE	General Fund	134.60
07/31/2020	GRAINGER-SAN JOSE	00475434	9566002797	CENTRAL LIB ELECTRIC	General Fund	125.48
07/31/2020	GRAINGER-SAN JOSE	00475641	9546087892	CHEMICAL CARTRIDGES	Other City Dept Op Grant Fund	649.81
07/31/2020	GRAINGER-SAN JOSE	00475743	9578555378	SUPPLIES - CUC	Solid Waste Program	890.31
07/31/2020	GRAINGER-SAN JOSE	00475744	9576949045	SUPPLIES-STREET	General Fund	87.64
07/31/2020	GRAINGER-SAN JOSE	00475804	9571970400	FIBERGLASS STEPLADDER	Sewer Utility	271.15
07/31/2020	GRAINGER-SAN JOSE	00475805	9574985850	BALL PEIN HAMMER	Water Utility	19.03

07/31/2020	GRAINGER-SAN JOSE	00475806	9574985876	DEMOLITION SCREWDRIVER	Water Utility	48.85
07/31/2020	GRAINGER-SAN JOSE	00475807	9574985868	REPLACEMENT CUTTING WHEEL	Water Utility	165.85
07/31/2020	GRAINGER-SAN JOSE	00475809	9588271206	CONE CUPS	Electric Utility	50.96
07/31/2020	GRAINGER-SAN JOSE	00476024	9517212420	VARIOUS SUPPLIES	Other City Dept Op Grant Fund	83.77
07/31/2020	GRAINGER-SAN JOSE	00476025	9517212412	VARIOUS SUPPLIES	Other City Dept Op Grant Fund	2,774.95
07/31/2020	GRAINGER-SAN JOSE	00476026	9518180824	VARIOUS SUPPLIES	Other City Dept Op Grant Fund	42.09
				Total for Payment No.:		8,450.82

Payment No: 016628

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GREENBERG TRAURIG LLP	00476137	5422759	CHANGE ORDER #4: ADDITIONAL FU	Special Liability Insurance	47,797.93
07/31/2020	GREENBERG TRAURIG LLP	00476137	5422759	CHANGE ORDER #5: ADDITIONAL FU	Special Liability Insurance	15,381.52
				Total for Payment No.:		63,179.45

Payment No: 016629

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	HILL BROTHERS CHEMICAL CO	00475668	07071366	DVR AMMONIA DELIVERY 7/16/20	Electric Utility	4,085.76
07/31/2020	HILL BROTHERS CHEMICAL CO	00475668	07071366	FUEL SURCHARGE	Electric Utility	21.80
				Total for Payment No.:		4,107.56

Payment No: 016630

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475349	4236779-00	SPRINKLER MAINTENANCE	General Fund	28.69
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475350	4241477-00	SPRINKLER MAINTENANCE	General Fund	54.56
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475351	4241130-00	SPRINKLER MAINTENANCE	General Fund	129.00
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475352	4240768-00	SPRINKLER MAINTENANCE	General Fund	239.19

07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475356	4240665-00	SPRINKLER MAINTENANCE	General Fund	67.13
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475381	4245077-00	SPRINKLER MAINTENANCE	General Fund	92.44
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475745	4254784-00	SUPPLIES - P&B	General Fund	94.88
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475746	4252532-00	SUPPLIES - P&B	General Fund	2,037.87
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475747	4242406-00	SUPPLIES-P&B	General Fund	24.14
07/31/2020	IMPERIAL SPRINKLER SUPPLY INC	00475748	4211664-00	SUPPLIES - P&B	General Fund	2,802.31
				Total for Payment No.:		5,570.21

Payment No: 016631

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INGRAM LIBRARY SERVICES INC	00475224	46975113	1241 AD BK	General Fund	1,049.76
07/31/2020	INGRAM LIBRARY SERVICES INC	00475224	46975113	1231 JUV BK	General Fund	333.85
07/31/2020	INGRAM LIBRARY SERVICES INC	00475224	46975113	1232 YA BK	General Fund	92.91
07/31/2020	INGRAM LIBRARY SERVICES INC	00475224	46975113	1233 AD/JUV BK	General Fund	27.77
07/31/2020	INGRAM LIBRARY SERVICES INC	00475225	46975128	1235 AD/YA/JUV BK	General Fund	178.37
07/31/2020	INGRAM LIBRARY SERVICES INC	00475226	46975141	1233 AD BK	General Fund	23.15
				Total for Payment No.:		1,705.81

Payment No: 016632

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INTERSTATE TRAFFIC CONTROL	00475749	238854	SUPPLIES - TRAFFIC MAINTENANCE	General Fund	2,884.20
				Total for Payment No.:		2,884.20

Payment No: 016633

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	JAVELCO EQUIPMENT SVC INC	00475275	57032	ENGINE REPAIR PARTS	Water Utility	620.21
07/31/2020	JAVELCO EQUIPMENT SVC INC	00475275	57032	LABOR	Water Utility	220.00
07/31/2020	JAVELCO EQUIPMENT SVC INC	00475276	57034	PARTS- V#2880	Fleet Operation Fund	121.56
07/31/2020	JAVELCO EQUIPMENT SVC INC	00475750	57083	MATERIALS - STREET	General Fund	409.84

				Total for Payment No.:		1,371.61

Payment No: 016634

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	JOHANNA JEAN MARCHEL	00475509	201/282138495	JANITORIAL SUPPLIES 881 MARTIN	Electric Utility	292.97
07/31/2020	JOHANNA JEAN MARCHEL	00475509	201/282138495	JANITORIAL SUPPLIES 881 MARTIN	Elec OperatingGrant Trust Fund	18.70
07/31/2020	JOHANNA JEAN MARCHEL	00475510	202	JANITORIAL 881 MARTIN AUG20	Electric Utility	2,392.30
07/31/2020	JOHANNA JEAN MARCHEL	00475510	202	JANITORIAL 881 MARTIN AUG20	Elec OperatingGrant Trust Fund	152.70
				Total for Payment No.:		2,856.67

Payment No: 016635

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	JOHN'S SALT SERVICE INC	00475652	31073	BULK SALT ONE TON-COGEN JUL20	Electric Utility	4,368.72
07/31/2020	JOHN'S SALT SERVICE INC	00475652	31073	FUEL SURCHARGE	Electric Utility	169.00
07/31/2020	JOHN'S SALT SERVICE INC	00475652	31073	FREIGHT	Electric Utility	389.00
				Total for Payment No.:		4,926.72

Payment No: 016636

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	KIMLEY-HORN AND ASSOC INC	00475994	16310618	AGREEMENT FOR DESIGN PROFESSIO	Streets And Highways	3,585.00
				Total for Payment No.:		3,585.00

Payment No: 016637

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	KUEHNE CONSTRUCTION	00475439	20-54	CH TOILET LEAK	General Fund	1,185.50
				Total for Payment No.:		1,185.50

Payment No: 016638

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	LEHR AUTO ELECTRIC	00475279	SI46176	PARTS- V# 3531 NEW VEH ACQ	Vehicle Replacement Fund	403.95
07/31/2020	LEHR AUTO ELECTRIC	00476085	SI41602	PARTS V3531 WO 127005	Vehicle Replacement Fund	8,747.60
				Total for Payment No.:		9,151.55

Payment No: 016639

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	LEVY SANTA CLARA CONVENTION CENTER	00476128	LEVYINV#062020	Meal Distribution Program	Other City Dept Op Grant Fund	21,811.20
				Total for Payment No.:		21,811.20

Payment No: 016640

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MBL & SONS, INC	00475238	63467-01 CPV JUN-2020	ST LAWRNC PBI PYMT #28 JUN-202	Elec OperatingGrant Trust Fund	5,031.92
07/31/2020	MBL & SONS, INC	00475239	75175-01 CPV JUN-2020	ST JUSTIN PBI PYMT #23 JUN-202	Elec OperatingGrant Trust Fund	1,682.29
				Total for Payment No.:		6,714.21

Payment No: 016641

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MIDWEST TAPE LLC	00475214	99090007	1235 Juv MCD	General Fund	44.28
07/31/2020	MIDWEST TAPE LLC	00475214	99090007	1241 AD DVD'S	General Fund	381.78
07/31/2020	MIDWEST TAPE LLC	00475216	99100988	1241 AD ABKS	General Fund	84.99
07/31/2020	MIDWEST TAPE LLC	00475216	99100988	1232 YA ABK	General Fund	43.59
07/31/2020	MIDWEST TAPE LLC	00475216	99100988	1235 AD ABK	General Fund	25.06
				Total for Payment No.:		579.70

Payment No: 016642

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MISSION TRAIL WASTE SYSTEMS	00475672	0000442456	MAY 2020 CORPORATION YARD DEBR	Solid Waste Program	7,615.08
07/31/2020	MISSION TRAIL WASTE SYSTEMS	00476077	1839JUL2020	JUN 20 GARBAGE SVCS	Solid Waste Program	872,921.20
07/31/2020	MISSION TRAIL WASTE SYSTEMS	00476077	1839JUL2020	JUN 20 GARBAGE SVCS	Solid Waste Program	172,337.81
07/31/2020	MISSION TRAIL WASTE SYSTEMS	00476134	M612	MAY 2020 COMMERCIAL FOOD SCRAP	Solid Waste Program	54,708.13
				Total for Payment No.:		1,107,582.22

Payment No: 016643

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MSR PUBLIC POWER AGENCY	00475233	071120	BIG HORN 2 POWER JUN20	Electric Utility	518,422.95
				Total for Payment No.:		518,422.95

Payment No: 016644

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MT TIRE SERVICE	00475280	14077	LABOR- V#2392 WO#127652	Fleet Operation Fund	30.00
07/31/2020	MT TIRE SERVICE	00475283	14089	LABOR- V#3284 WO# 127687	Fleet Operation Fund	100.00
07/31/2020	MT TIRE SERVICE	00475284	14090	LABOR- FLEET SERVICE	Fleet Operation Fund	120.00
07/31/2020	MT TIRE SERVICE	00475285	14175	LABOR- V#2892 WO#127805	Fleet Operation Fund	75.00
07/31/2020	MT TIRE SERVICE	00475286	14177	LABOR- FLEET SERVICE	Fleet Operation Fund	120.00
				Total for Payment No.:		445.00

Payment No: 016645

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NEXANT INC	00475231	102695	C&I ENERGY EFFCY 17-1 JUN20	Elec OperatingGrant Trust Fund	1,034.62
				Total for Payment No.:		1,034.62

Payment No: 016646

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NVIDIA CORP	00475240	63037-04 CPV JUN-2020	PBI SOLAR PROD PYMT #40 JUN-20	Elec OperatingGrant Trust Fund	7,035.93
				Total for Payment No.:		7,035.93

Payment No: 016647

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	OC JONES & SONS INC	00475992	70663R	AGREEMENT FOR REED ST-GRANT ST	Parks And Recreation	203,016.24
				Total for Payment No.:		203,016.24

Payment No: 016648

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	OFF THE WALL SOCCER	00475241	63154-02 CPV JUN-2020	PBI SOLAR PROD PYMT #40 JUN 20	Elec OperatingGrant Trust Fund	1,920.51
				Total for Payment No.:		1,920.51

Payment No: 016649

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	OMEGA INDUSTRIAL SUPPLY INC	00475753	127060	STREET - SUPPLIESS	General Fund	1,578.59
				Total for Payment No.:		1,578.59

Payment No: 016650

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ORACLE AMERICA INC	00476056	44773844	PEOPLESOFT PROGRAM-RELATED QUA	General Fund	2,942.44
				Total for Payment No.:		2,942.44

Payment No: 016651

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PARS/GASB 45	00476130	14589JUL2020A	MONTHLY CONTRIB AUGUST 2020	OPEB Plan Trust Fund	305,583.00

				Total for Payment No.:		305,583.00

Payment No: 016652

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PRAXAIR DISTRIBUTION INC	00475109	96621397	CALISTO 9 CARRIER HELIUM RES K	Electric Utility	2,908.97
07/31/2020	PRAXAIR DISTRIBUTION INC	00475386	97290637	RENTAL- SHOP USE	Fleet Operation Fund	31.60
				Total for Payment No.:		2,940.57

Payment No: 016653

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	RACHEL SCHMIDT	00476028	28485JUL2020	2020 PUBLIC LIB ASSOC CONFEREN	General Fund	260.59
				Total for Payment No.:		260.59

Payment No: 016654

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	REDWOOD CONSTRUCTN & EQUIP INC	00475999	21948JUL2020	BOWERS AND MACHADO PARKS PLAYG	Parks And Recreation	43,580.12
07/31/2020	REDWOOD CONSTRUCTN & EQUIP INC	00475999	21948JUL2020	10% CONTINGENCY.	Parks And Recreation	22,084.50
07/31/2020	REDWOOD CONSTRUCTN & EQUIP INC	00475999	21948JUL2020	RETENTION	Parks And Recreation	-3,283.23
				Total for Payment No.:		62,381.39

Payment No: 016655

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	RICOH CORP	00476034	9028509440	RICOH EQUIPMENT MONTHLY LEASE	Information Technology Service	20,244.45
07/31/2020	RICOH CORP	00476034	9028509440	STADIUM BRIEFING ROOM RICOH LE	General Fund	70.46
07/31/2020	RICOH CORP	00476034	9028509440	STADIUM MANAGERS OFFICE RICOH	S.C.Stadium Authority Ops	65.12
07/31/2020	RICOH CORP	00476034	9028509440	JULY 2020 LEASE/USAGE	Information Technology Service	6,750.90
				Total for Payment No.:		27,130.93

Payment No: 016656

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SEDGWICK CLAIMS MGMT SVCS INC	00476057	B1131932	WORK COMP SVCS JUNE 2020	Workers Compensation	24,216.00
				Total for Payment No.:		24,216.00

Payment No: 016657

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TECHNOLOGY SERVICES AND	00476159	1800073360	ISD TN3270 (2652) JUNE 2020	General Fund	81.30
				Total for Payment No.:		81.30

Payment No: 016658

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TECHNOLOGY, ENGINEERING & CONSTRUCTION	00475755	200298	MONTHLY INSPECTION 05/25/20	Fleet Operation Fund	375.00
				Total for Payment No.:		375.00

Payment No: 016659

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	THE GOODYEAR TIRE & RUBBER COMPANY	00475269	189-1103783	PARTS- STOCK	Fleet Operation Fund	939.55
07/31/2020	THE GOODYEAR TIRE & RUBBER COMPANY	00475269	189-1103783	CA WASTE TIRE FEE-NONTAXABLE	Fleet Operation Fund	11.46
				Total for Payment No.:		951.01

Payment No: 016660

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	THERMAL MECHANICAL INC	00475444	79480	SVP 881 MARTIN - LABOR	Electric Utility Construction	3,439.38
07/31/2020	THERMAL MECHANICAL INC	00475444	79480	MATERIAL	Electric Utility Construction	2,517.23
07/31/2020	THERMAL MECHANICAL INC	00475445	79435	SENIOR CENTER COMPRESSOR	General Fund	412.50

				Total for Payment No.:		6,369.11

Payment No: 016661

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TIFCO INDUSTRIES	00475395	71563518	PARTS- SHOP USE	Fleet Operation Fund	844.21
				Total for Payment No.:		844.21

Payment No: 016662

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TINA A. THOMAS	00476135	30708	CHANGE ORDER #1 LEGAL SERVICES	Special Liability Insurance	300.00
07/31/2020	TINA A. THOMAS	00476136	30707	CHANGE ORDER #2 LEGAL SERVICES	Special Liability Insurance	4,118.74
07/31/2020	TINA A. THOMAS	00476142	30709	LEGAL SERVICES	Special Liability Insurance	4,562.50
				Total for Payment No.:		8,981.24

Payment No: 016663

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TITAN CLOUD SOFTWARE, LLC	00475396	INV1336	ENVIRO COMP SOFTWARE SUBSCR	Fleet Operation Fund	2,500.00
				Total for Payment No.:		2,500.00

Payment No: 016664

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TONY OCHOA	00475424	2004JUL2020	FY 20/21 SFTY BOOT/CLOTH REIMB	Electric Utility	280.00
				Total for Payment No.:		280.00

Payment No: 016665

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNISYS CORP	00476039	M2007006	INFORMATION TECHNOLOGY SERVICE	Information	745,738.67

					Technology Service	
07/31/2020	UNISYS CORP	00476039	M2007006	INFORMATION TECHNOLOGY SERVICE	General Fund	524.42
07/31/2020	UNISYS CORP	00476039	M2007006	STADIUM OPERATION COSTS	General Fund	445.36
				Total for Payment No.:		746,708.45

Payment No: 016666

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNITED REFRIGERATION INC	00475446	73976987-00	SUPPLIES	General Fund	175.18
				Total for Payment No.:		175.18

Payment No: 016667

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNIVERSAL SITE SERVICES	00476140	20024210	FY 2019-20 CUSTODIAL SERVICES	Convention Cnt Maintenance Dis	5,980.00
07/31/2020	UNIVERSAL SITE SERVICES	00476140	20024210	FY 2019-20 PRESSURE WASHING SE	Convention Cnt Maintenance Dis	2,720.00
				Total for Payment No.:		8,700.00

Payment No: 016668

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VALLEY FAIR MALL, LLC	00475242	63832-01 CPV JUN-20	PBI SOLAR PROD PYMT #30 JUN-20	Elec OperatingGrant Trust Fund	20,057.22
				Total for Payment No.:		20,057.22

Payment No: 016669

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VANTAGE DATA CENTERS	00475244	R21-DCR-0014	DATA CTR REBATE; 80360-1 737MA	Elec OperatingGrant Trust Fund	2,769.30
				Total for Payment No.:		2,769.30

Payment No: 016670

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VANTAGE DATA CENTERS	00475452	1723	CARRIER ACCESS AUG20 737MATHEW	Electric Utility	400.00
07/31/2020	VANTAGE DATA CENTERS	00475453	1714	CARRIER ACCESS AUG20 2897 NORT	Electric Utility	400.00
				Total for Payment No.:		800.00

Payment No: 016671

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	WAXIE SANITARY SUPPLY	00475127	79284997	ADMIN CLOROX WIPES	Other City Dept Op Grant Fund	59.87
07/31/2020	WAXIE SANITARY SUPPLY	00475128	79292767	ADMIN CLOROX WIPES	Other City Dept Op Grant Fund	59.87
07/31/2020	WAXIE SANITARY SUPPLY	00475129	79298852	ADMIN CLOROX WIPES	Other City Dept Op Grant Fund	59.87
07/31/2020	WAXIE SANITARY SUPPLY	00476019	79292747	3.3 G Disinfecting/Sanitizing	Other City Dept Op Grant Fund	253.64
				Total for Payment No.:		433.25

Payment No: 016672

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	WESCO DISTRIBUTION	00475243	62602-01 CPV JUN-2020	PBI SOLAR PROD PYMT #31 JUN-20	Elec OperatingGrant Trust Fund	1,246.70
				Total for Payment No.:		1,246.70
				Overall Total		6,837,787.43

Sorted by Payment Number

Payment No: 644829

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AMN HEALTHCARE	00459320	57641-27 Utility Refund	UTILITY REFUND	General Fund	56.83
				Total for Payment No.:		56.83

Payment No: 644830

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CALIF SURVEY & DRAFTING SUPPLY	00476002	1488321/1	TRMR101026001 Trimble R10-2 Re	General Fund	5,450.00
07/31/2020	CALIF SURVEY & DRAFTING SUPPLY	00476002	1488321/1	TRMR10CFG00241 Trimble R10-2 B	General Fund	16,950.00
07/31/2020	CALIF SURVEY & DRAFTING SUPPLY	00476002	1488321/1	Trade In Credit for Sokkia GPS	General Fund	-2,500.00
				Total for Payment No.:		19,900.00

Payment No: 644831

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CLEARS, INC	00475055	468JUL2020	Records Sups '21 Dues	General Fund	100.00
				Total for Payment No.:		100.00

Payment No: 644832

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CRUZ, LORRAINE LEE	00453126	59130-04 Utility Refund	UTILITY REFUND	General Fund	55.27
				Total for Payment No.:		55.27

Payment No: 644833

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

07/31/2020	DALEO INC	00475991	16475JUL2020	RETENTION RELEASE	Streets And Highways	37,858.63
				Total for Payment No.:		37,858.63

Payment No: 644834

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DEREK RUSH	00476118	2351JAN2020	RELATED MEETINGS	Expendable Trust Funds	242.00
07/31/2020	DEREK RUSH	00476118	2351JAN2020	RELATED MEETINGS	S.C.Stadium Authority Ops	76.00
				Total for Payment No.:		318.00

Payment No: 644835

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DUNCAN, JEFFERY D	00476054	29744MAY2020	EUSERC CONFERENCE	Electric Utility	105.13
				Total for Payment No.:		105.13

Payment No: 644836

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	JORDAN FACHKO	00476030	24595JUL2020	SRT SUPPLIES REIMB	General Fund	295.42
				Total for Payment No.:		295.42

Payment No: 644837

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	LISA GILLMOR	00476127	21961JUN2020	US CONFERENCE OF MAYORS	General Fund	2,364.88
				Total for Payment No.:		2,364.88

Payment No: 644838

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NICOLE MCCURRY	00474206	32437JUN2020	INSTRUCTOR IN-SERVICE TRAINING	General Fund	304.98

				Total for Payment No.:		304.98

Payment No: 644839

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PACHECO, JACOB	00458644	32952-27 Utility Refund	UTILITY REFUND	General Fund	113.55
				Total for Payment No.:		113.55

Payment No: 644840

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SANTA CLARA VALLEY HEALTH & HOSPITAL SYS	00475059	7320307200	SART Medical 7320307200	General Fund	2,519.00
				Total for Payment No.:		2,519.00

Payment No: 644841

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	THE MECHANICS BANK	00475993	1772JUL2020	EXCROW AGREEMENT FOR THE REED	Parks And Recreation	14,158.76
				Total for Payment No.:		14,158.76

Payment No: 644842

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TRAVIS NIESEN	00476117	17305JAN2020	RELATED MEETINGS	S.C.Stadium Authority Ops	123.33
07/31/2020	TRAVIS NIESEN	00476117	17305JAN2020	RELATED MEETINGS	Expendable Trust Funds	224.35
				Total for Payment No.:		347.68

Payment No: 644843

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CA FRANCHISE TAX BOARD	00476151	07/12/20-07/25/20CB	WAGE ATTACHMENT B2016	Payroll Liability&ClearingAcct	150.00

				Total for Payment No.:		150.00

Payment No: 644844

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CAL PERS LONG TERM CARE PROGRAM	00476145	13463186	BIWEEKLY PR CALPERS LT B2016	Payroll Liability&ClearingAcct	378.74
				Total for Payment No.:		378.74

Payment No: 644845

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	U.S. BANK	00476154	07/12/20-07/25/20	BIWKLY PAYROLL DED PARS B2016	Fringe Benefits	8,341.32
				Total for Payment No.:		8,341.32

Payment No: 644846

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	US TREASURY	00476152	07/12/20-07/25/20JO	WAGE ATTACHMENT B2016	Payroll Liability&ClearingAcct	50.00
				Total for Payment No.:		50.00

Payment No: 644847

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ALCOHOLICS ANONYMOUS	00471918	04/14/20 CLASS REFUND	PARKS DEPT REFUND	General Fund	100.00
				Total for Payment No.:		100.00

Payment No: 644848

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ALLIED AUTO STORES	00475252	201744B	PARTS- STOCK	Fleet Operation Fund	710.19
				Total for Payment No.:		710.19

Payment No: 644849

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ALSCO SAN JOSE	00475005	LSJO1234960	LINEN SERVICE ST. 7	General Fund	202.41
				Total for Payment No.:		202.41

Payment No: 644850

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AMERICAN TEXTILE & SUPPLY INC	00475322	106411	SERVICE WHITE TERRY	General Fund	410.65
				Total for Payment No.:		410.65

Payment No: 644851

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ARAMARK UNIFORM SERVICES	00475535	760888274	CLEANING SVC/SHOP TOWELS DVR	Electric Utility	406.76
				Total for Payment No.:		406.76

Payment No: 644852

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T CALNET	00475670	000015069421	BN9391023689 6/20/20-7/19/20	Electric Utility	197.74
				Total for Payment No.:		197.74

Payment No: 644853

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T CALNET	00475841	000014926876	Circuit 9391023685	Information Technology Service	33.47
07/31/2020	AT&T CALNET	00475842	000014926987	Circuit 9391023687	Information Technology Service	66.08
07/31/2020	AT&T CALNET	00475843	000014947374	Engr 9391023694	Information Technology Service	20.89
07/31/2020	AT&T CALNET	00475844	000014941257	Comm 9391023695	Information Technology Service	5,325.49
07/31/2020	AT&T CALNET	00475845	000014942109	Gen 9391054149	Information	55.69

					Technology Service	
07/31/2020	AT&T CALNET	00475846	000014941244	BM9391023697	Information Technology Service	205.66
07/31/2020	AT&T CALNET	00475847	000014941275	CA 9391023698	Information Technology Service	38.47
07/31/2020	AT&T CALNET	00475848	000014941251	CC 9391023699	Information Technology Service	59.36
07/31/2020	AT&T CALNET	00475849	000014941261	CM 9391023700	Information Technology Service	19.23
07/31/2020	AT&T CALNET	00475850	000014941247	FIN 9391023701	Information Technology Service	197.37
07/31/2020	AT&T CALNET	00475851	000014941250	PLAN 9391023702	Information Technology Service	223.18
07/31/2020	AT&T CALNET	00475851	000014941250	Berryessa260-1826 Alarm line	General Fund	59.37
07/31/2020	AT&T CALNET	00475852	000014941255	LIB9391023703	Information Technology Service	203.94
07/31/2020	AT&T CALNET	00475853	000014941272	AUTO 9391023704	Information Technology Service	59.35
07/31/2020	AT&T CALNET	00475854	000014941266	ENGR 9391023705	Information Technology Service	123.03
07/31/2020	AT&T CALNET	00475855	000014941263	HR 9391023706	Information Technology Service	21.13
07/31/2020	AT&T CALNET	00475856	000014941256	CEM 9391023707	Cemetery	61.05
07/31/2020	AT&T CALNET	00475857	000014941245	PR 9391023708	Information Technology Service	769.75
07/31/2020	AT&T CALNET	00475858	000014941554	SR CTR 9391023709	Information Technology Service	80.29
07/31/2020	AT&T CALNET	00475859	000014941260	CRC 9391023710	Information Technology Service	41.78
07/31/2020	AT&T CALNET	00475860	000014941249	PD9391023711	Information Technology Service	3,699.71
07/31/2020	AT&T CALNET	00475860	000014941249	PD246-8216/984-5278	General Fund	70.84
07/31/2020	AT&T CALNET	00475861	000014941270	PURCH 9391023712	Information Technology Service	41.78
07/31/2020	AT&T CALNET	00475862	000014941253	ST 9391023713	Information Technology Service	216.67
07/31/2020	AT&T CALNET	00475862	000014941253	Conv. Ctr986-1335 security boo	Convention Cnt Maintenance Dis	27.08

07/31/2020	AT&T CALNET	00475862	000014941253	auto dialer970-8644	Solid Waste Utility-Constructi	27.08
07/31/2020	AT&T CALNET	00475863	000014941248	FD 9391023714	Information Technology Service	783.58
07/31/2020	AT&T CALNET	00475864	000014941246	IT 9391023715	Information Technology Service	410.78
07/31/2020	AT&T CALNET	00475864	000014941246	Water	Water Utility	50.00
07/31/2020	AT&T CALNET	00475865	000014941258	IT (615 & 261 #s) 9391023716	Information Technology Service	440.92
07/31/2020	AT&T CALNET	00475865	000014941258	Water	Water Utility	177.11
07/31/2020	AT&T CALNET	00475865	000014941258	Sewer	Sewer Utility	177.12
07/31/2020	AT&T CALNET	00475866	000014941243	ENGR 9391023717	General Fund	313.35
07/31/2020	AT&T CALNET	00475867	000014941264	LIB 9391023718	General Fund	245.02
07/31/2020	AT&T CALNET	00475868	000014941252	PARKS 9391023719	General Fund	213.04
07/31/2020	AT&T CALNET	00475869	000014941259	PD 9391023720	General Fund	41.84
07/31/2020	AT&T CALNET	00475870	000014941269	TAS GAR9391023724	General Fund	647.59
07/31/2020	AT&T CALNET	00475871	000014941240	COMM SRVS9391048040	General Fund	20.89
07/31/2020	AT&T CALNET	00475872	000014942110	CRC 9391054153	Information Technology Service	16.46
07/31/2020	AT&T CALNET	00475873	000014942597	Morse Mansion9391064468	General Fund	41.81
07/31/2020	AT&T CALNET	00475874	000014942623	Police-Alarms9391065446	Information Technology Service	40.13
07/31/2020	AT&T CALNET	00475875	000014900881	Conference 9391060106	Other City Dept Op Grant Fund	1,441.49
07/31/2020	AT&T CALNET	00475876	000014901981	Police-DOJ 9391066810	Information Technology Service	299.15
				Total for Payment No.:		17,108.02

Payment No: 644855

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475371	828850115X06162020	ADMIN	Other City Dept Op Grant Fund	52.28
07/31/2020	AT&T MOBILITY	00475371	828850115X06162020	ADMIN	General Fund	125.22
07/31/2020	AT&T MOBILITY	00475371	828850115X06162020	ADMIN	General Fund	43.23

07/31/2020	AT&T MOBILITY	00475371	828850115X06162020	ADMIN	Information Technology Service	43.74
				Total for Payment No.:		264.47

Payment No: 644856

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475372	828915204X06162020	BUILDING INSPECTION	Information Technology Service	14.36
07/31/2020	AT&T MOBILITY	00475372	828915204X06162020	BUILDING INSPECTION	General Fund	5.00
				Total for Payment No.:		19.36

Payment No: 644857

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475373	287262084337X06162020	BI iPADS	General Government - Other	778.14
				Total for Payment No.:		778.14

Payment No: 644858

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475374	828848268X06162020	BUILDING MAINTENANCE	General Fund	415.96
				Total for Payment No.:		415.96

Payment No: 644859

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475375	876361352X06162020	DPW	General Fund	367.89
				Total for Payment No.:		367.89

Payment No: 644860

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475376	287286334235X05192020	FIRE	General Fund	3,622.70

07/31/2020	AT&T MOBILITY	00475376	287286334235X05192020	FIRE	General Fund	97.80
07/31/2020	AT&T MOBILITY	00475376	287286334235X05192020	FIRE	General Fund	89.09
				Total for Payment No.:		3,809.59

Payment No: 644861

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475377	876361410X06162020	PARKS & REC	General Fund	40.74
07/31/2020	AT&T MOBILITY	00475377	876361410X06162020	PARKS & REC	General Fund	81.48
07/31/2020	AT&T MOBILITY	00475377	876361410X06162020	PARKS & REC	Information Technology Service	43.19
				Total for Payment No.:		165.41

Payment No: 644862

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475378	287288153081X06162020	POLICE	General Fund	2,066.29
				Total for Payment No.:		2,066.29

Payment No: 644863

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	AT&T MOBILITY	00475379	828928594X06162020	STREETS	General Fund	91.64
07/31/2020	AT&T MOBILITY	00475379	828928594X06162020	STREETS	General Fund	127.13
07/31/2020	AT&T MOBILITY	00475379	828928594X06162020	STREETS	General Fund	288.82
07/31/2020	AT&T MOBILITY	00475379	828928594X06162020	STREETS	General Fund	295.17
07/31/2020	AT&T MOBILITY	00475379	828928594X06162020	STREETS	General Fund	183.67
07/31/2020	AT&T MOBILITY	00475379	828928594X06162020	STREETS	Solid Waste Utility-Constructi	26.24
				Total for Payment No.:		1,012.67

Payment No: 644864

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

07/31/2020	B&H PHOTO VIDEO	00476071	173637467	MANFROTTO 190CXPRO4 CARBON FBR	Public Education and Governmnt	407.66
				Total for Payment No.:		407.66

Payment No: 644865

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BENCHMARK	00475490	E20-1052	ASBESTOS/LEAD SAMP/REPT-RINCON	H.U.D Capital Projects	729.50
07/31/2020	BENCHMARK	00476031	E20-927	FIRE STATION 8	General Fund	755.00
				Total for Payment No.:		1,484.50

Payment No: 644866

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BESOSIE GANAL	00475236	61559-01 CPV JUN-2020	PBI MAY-2020 PYMT #34 VALLY HO	Elec OperatingGrant Trust Fund	3,891.83
				Total for Payment No.:		3,891.83

Payment No: 644867

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BISHOP CO	00475740	470076	SUPPLIES	Solid Waste Program	1,655.06
				Total for Payment No.:		1,655.06

Payment No: 644868

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BLACK & VEATCH CORP	00476073	6706203	WTR UTILITY RATE/SDC STUDY	Water Utility Construction	600.00
07/31/2020	BLACK & VEATCH CORP	00476073	6706203	RECYCLED WTR RATE STUDY/SD SDC	Water Recycling Program	2,760.00
07/31/2020	BLACK & VEATCH CORP	00476074	6706060	WTR UTILITY RATE/SDC STUDY	Water Utility Construction	1,200.00
				Total for Payment No.:		4,560.00

Payment No: 644869

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	BRIGHTVIEW TREE CARE SERVICES, INC.	00475569	6879962	TREES	Parks And Recreation	942.85
				Total for Payment No.:		942.85

Payment No: 644870

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CENTER FOR PUBLIC SAFETY EXCELLENCE, INC	00475011	05-14957	2020 ACCREDITATION FEES	General Fund	1,750.00
				Total for Payment No.:		1,750.00

Payment No: 644871

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CHRISTOPHER MAJOR	00472603	R220-EVC-047	EV REBATE ACCT# 41906-03	Elec OperatingGrant Trust Fund	833.12
				Total for Payment No.:		833.12

Payment No: 644872

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CMMS DATA GROUP, INC	00476055	00005046	PLANT-S-RS-10 MVP PLANT ANNUAL	Electric Utility	1,500.00
07/31/2020	CMMS DATA GROUP, INC	00476055	00005046	PLANT-S-USER-GOLD-C MVP PLANT	Electric Utility	24,300.00
07/31/2020	CMMS DATA GROUP, INC	00476055	00005046	PLANT-S-MOBILE-ANDROID MVP PLA	Electric Utility	8,550.00
				Total for Payment No.:		34,350.00

Payment No: 644873

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	COGENT COMMUNICATIONS	00475455	CITYOFSA00015JUL2020	INTERNET SERVICE	Information Technology Service	1,522.50
				Total for Payment No.:		1,522.50

Payment No: 644874

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CONCENTRA MEDICAL CENTERS	00475933	68449735	POST OFFER PHYSICAL	General Fund	85.00
07/31/2020	CONCENTRA MEDICAL CENTERS	00475933	68449735	DOT - ELECTRIC FIELD	Electric Utility	85.00
				Total for Payment No.:		170.00

Payment No: 644875

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CRANE CERTIFICATION &	00475255	1040	#3277,3188,3506,3016 3308,1903	Fleet Operation Fund	1,925.00
				Total for Payment No.:		1,925.00

Payment No: 644876

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CRESCO EQUIPMENT RENTALS	00475669	5209326-0001	PROPANE	Electric Utility	32.30
				Total for Payment No.:		32.30

Payment No: 644877

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CSAC EXCESS INSURANCE	00476062	21400746	POLLUTION LIAB-6.30.18-6.30.21	Special Liability Insurance	4,194.00
07/31/2020	CSAC EXCESS INSURANCE	00476065	21400921	OPTION EXCESS LIAB PROGRAM	Special Liability Insurance	231,153.00
				Total for Payment No.:		235,347.00

Payment No: 644878

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	CSG CONSULTANTS INC	00476007	29505	DESIGN SERVICES FOR PAVEMENT M	Streets And Highways	20,093.75
07/31/2020	CSG CONSULTANTS INC	00476008	30799	DESIGN SERVICES FOR PAVEMENT M	Streets And Highways	1,470.00
				Total for Payment No.:		21,563.75

Payment No: 644879

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	D&M TRAFFIC SERVICES	00475802	72486	48" FOLD AND ROLL SIGN	Sewer Utility	1,362.22
				Total for Payment No.:		1,362.22

Payment No: 644880

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DANA L INGERSOLL	00474991	101-1	2019 COUNSELING SESSIONS #101	General Fund	520.00
07/31/2020	DANA L INGERSOLL	00474991	101-1	1/20-6/20 COUNSELING SESS #101	General Fund	650.00
				Total for Payment No.:		1,170.00

Payment No: 644881

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DELL MARKETING LP	00475380	10400697208	POLICE - TAXABLE	General Fund	324.82
07/31/2020	DELL MARKETING LP	00475380	10400697208	IT STOCK - TAXABLE	General Government - Other	487.23
07/31/2020	DELL MARKETING LP	00475380	10400697208	POLICE - NON TAXABLE	General Fund	10.00
07/31/2020	DELL MARKETING LP	00475380	10400697208	IT STOCK - NON TAXABLE	General Government - Other	15.00
				Total for Payment No.:		837.05

Payment No: 644882

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DKS ASSOC	00475995	0073118	DESIGN PROFESSIONAL SERVICE AG	Streets And Highways	5,680.00
				Total for Payment No.:		5,680.00

Payment No: 644883

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	2020 FORD F250 4X2 SUPERCAB PI	Vehicle Replacement Fund	26,085.88

07/31/2020	DOWNTOWN FORD SALES	00476126	315236	2020 PRICE INCREASE EFFECTIVE	Vehicle Replacement Fund	948.30
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	LONGBED	Vehicle Replacement Fund	233.26
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	BACKUP ALARM	Vehicle Replacement Fund	153.69
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	POWER GROUP	Vehicle Replacement Fund	1,009.34
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	RUNNING BOARDS	Vehicle Replacement Fund	485.05
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	TRAILER BRAKE CONTROLLER	Vehicle Replacement Fund	298.66
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	UPFITTER SWITCHES	Vehicle Replacement Fund	325.91
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	SPRAY IN BEDLINER	Vehicle Replacement Fund	648.55
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	DOC FEE	Vehicle Replacement Fund	92.65
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	DELIVERY FEE	Vehicle Replacement Fund	300.00
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	CA TIRE TAX	Vehicle Replacement Fund	8.75
07/31/2020	DOWNTOWN FORD SALES	00476126	315236	DISCOUNT FOR EARLY PYMNT	Vehicle Replacement Fund	-545.00
				Total for Payment No.:		30,045.04

Payment No: 644884

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	EJ PIRES TRUCKING INC	00476072	97347	TRUCKING AND HAULING SERVICES-	Water Utility	4,301.00
07/31/2020	EJ PIRES TRUCKING INC	00476072	97347	TRUCKING & HAULING SERVICES -	Sewer Utility	759.00
				Total for Payment No.:		5,060.00

Payment No: 644885

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ELECTRIC & GAS INDUSTRIES ASSN	00475426	46089	ONGOING PROGRAM ADMIN JUN20	Elec OperatingGrant Trust Fund	2,250.00

07/31/2020	ELECTRIC & GAS INDUSTRIES ASSN	00475426	46089	ONGOING IT APP MAINT. JUN2020	Elec OperatingGrant Trust Fund	2,000.00
07/31/2020	ELECTRIC & GAS INDUSTRIES ASSN	00475426	46089	PROGRAM IMPLEMENT/MGMT JUN20	Elec OperatingGrant Trust Fund	750.00
				Total for Payment No.:		5,000.00

Payment No: 644886

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ENDEAVOUR STORAGE SOLUTIONS	00475122	231634	CONEX BOX RENTAL - ST. 10	General Fund	87.20
				Total for Payment No.:		87.20

Payment No: 644887

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	EOA INC	00475640	SY08-0420	STORMWATER MRP COMPLIANCE ASSI	General Fund	139.85
				Total for Payment No.:		139.85

Payment No: 644888

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	FAST UNDERCAR SANTA CLARA	00475259	52160	PARTS- V# 3477	Fleet Operation Fund	143.16
07/31/2020	FAST UNDERCAR SANTA CLARA	00475260	55754	CREDIT- PART RETURNED	Fleet Operation Fund	-214.08
07/31/2020	FAST UNDERCAR SANTA CLARA	00475261	55755	PARTS-STOCK	Fleet Operation Fund	678.72
07/31/2020	FAST UNDERCAR SANTA CLARA	00475261	55755	CA BATTERY FEE- NONTAXABLE	Fleet Operation Fund	6.00
				Total for Payment No.:		613.80

Payment No: 644889

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	FEDERAL ENERGY REGULATORY COMM	00475539	H20460-00	FERC ADMIN CHRGS FY20 SG 3193	Electric Utility	17,800.31
				Total for Payment No.:		17,800.31

Payment No: 644890

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	FEDERAL ENERGY REGULATORY COMM	00475540	H20459-00	FERC ADMIN CHRGS FY20 BB 3190	Electric Utility	19,426.03
				Total for Payment No.:		19,426.03

Payment No: 644891

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	FEDERAL EXPRESS	00475828	7-068-00974	Shipping - D Rush to CHP	General Fund	17.44
				Total for Payment No.:		17.44

Payment No: 644892

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	FEDERAL EXPRESS	00475538	7-061-93172	MISC. SHIPPING DVR	Electric Utility	119.49
				Total for Payment No.:		119.49

Payment No: 644893

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	FREDERICO DOMONDON	00476078	07/14/20 CLASS REFUND	PARKS DEPT REFUND	General Fund	20.00
				Total for Payment No.:		20.00

Payment No: 644894

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GENEVIEVE ALTWER LMFT	00475006	146	BEHAVIORAL COUNSELING #111	General Fund	160.00
07/31/2020	GENEVIEVE ALTWER LMFT	00475007	141	BEHAVIORAL COUNSELING #111	General Fund	160.00
07/31/2020	GENEVIEVE ALTWER LMFT	00475008	157	BEHAVIORAL COUNSELING #105	General Fund	160.00
07/31/2020	GENEVIEVE ALTWER LMFT	00475009	145	BEHAVIORAL COUNSELING #105	General Fund	160.00
07/31/2020	GENEVIEVE ALTWER LMFT	00475010	140	BEHAVIORAL COUNSELING #103	General Fund	160.00
07/31/2020	GENEVIEVE ALTWER LMFT	00475012	150	BEHAVIORAL COUNSELING #103	General Fund	160.00
				Total for Payment No.:		960.00

Payment No: 644895

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GOLDEN GATE TRUCK CENTER	00475262	F005995389:01	PARTS- V#2821	Fleet Operation Fund	553.62
07/31/2020	GOLDEN GATE TRUCK CENTER	00475264	F005995845:01	PARTS- V#3142	Fleet Operation Fund	438.52
				Total for Payment No.:		992.14

Payment No: 644896

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GOODWIN CONSULTING GROUP INC	00476033	10275	PREPARATION OF BOUNDARY MAP	Deposit Funds.	1,500.00
				Total for Payment No.:		1,500.00

Payment No: 644897

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	GUIDEHOUSE INC	00475615	0100054121	NERC CIP SUPPORT JUN20	Electric Utility	2,388.50
				Total for Payment No.:		2,388.50

Payment No: 644898

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	HALREC INC	00475388	351849	PARTS- V#2782	Fleet Operation Fund	212.66
07/31/2020	HALREC INC	00475388	351849	PARTS- V#2706	Fleet Operation Fund	212.67
				Total for Payment No.:		425.33

Payment No: 644899

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	HANSON BRIDGETT LLP	00476067	1269898	LEGAL SERVICES	Special Liability Insurance	517.50
07/31/2020	HANSON BRIDGETT LLP	00476068	1269897	CHANGE ORDER #2: ADDTIONAL ENC	Special Liability Insurance	845.25
				Total for Payment No.:		1,362.75

Payment No: 644900

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	HAWK ANALYTICS, INC.	00475058	INV23670	CellHawk subsciption 9/20-9/21	General Fund	4,995.00
				Total for Payment No.:		4,995.00

Payment No: 644901

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	HELENE ROTHSCHILD	00475004	FD 100-12	BEHAVIORAL COUNSELING #100	General Fund	160.00
				Total for Payment No.:		160.00

Payment No: 644902

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	HOME DEPOT USA	00475387	560894438	LAWN LEAF BAGS	General Fund	1,387.62
07/31/2020	HOME DEPOT USA	00475666	560347346	FRESHENER OIL REFILL	Electric Utility	107.26
07/31/2020	HOME DEPOT USA	00475667	559911201	SCOTT MULTIFOLD TOWEL 1PLY	Electric Utility	57.81
07/31/2020	HOME DEPOT USA	00475667	559911201	RENOWN KITCHEN TWL 3PLY	Electric Utility	57.64
07/31/2020	HOME DEPOT USA	00475667	559911201	2 PACK, 6 PACK/CASE	Electric Utility	23.22
07/31/2020	HOME DEPOT USA	00475811	560149866	JANITORIAL SUPPLIES	General Fund	163.35
07/31/2020	HOME DEPOT USA	00475813	560149858	JANITORIAL SUPPLIES	General Fund	205.24
07/31/2020	HOME DEPOT USA	00475815	560149890	JANITORIAL SUPPLIES	Water Utility	141.72
07/31/2020	HOME DEPOT USA	00475816	560149882	JANITORIAL SUPPLIES	General Fund	317.16
07/31/2020	HOME DEPOT USA	00475817	560149874	JANITORIAL SUPPLIES	Electric Utility	109.11
07/31/2020	HOME DEPOT USA	00475820	561399767	JANITORIAL SUPPLIES	Electric Utility	248.92
07/31/2020	HOME DEPOT USA	00475824	561399759	JANITORIAL SUPPLIES	Water Utility	213.78
07/31/2020	HOME DEPOT USA	00476115	561399734	SUPPLIES POLICE	General Fund	205.24
				Total for Payment No.:		3,238.07

Payment No: 644903

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475901	02347353	SAFETY GLASSES - KYEL RAMOS	Water Utility	55.72
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475901	02347353	DISPENSING FEE	Water Utility	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475904	02266532	SAFETY GLASSES - ANTONIO OCHOA	Electric Utility	134.38
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475904	02266532	DISPENSING FEE	Electric Utility	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475909	02266533	SAFETY TINT- ANTONIO OCHOA	Electric Utility	111.44
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475909	02266533	DISPENSING FEE	Electric Utility	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475923	02265870	SAFETY GLASSES - CHRIS TAYLOR	Electric Utility	86.86
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475923	02265870	DISPENSING FEE	Electric Utility	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475926	02265871	SAFETY TINT - CHRIS TAYLOR	Electric Utility	61.18
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475926	02265871	DISPENSING FEE	Electric Utility	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475927	02264863	SAFETY GLASSES - JESSE DELGADO	Electric Utility	137.11
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475927	02264863	DISPENSING FEE	Electric Utility	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475928	02264864	SAFETY TINT - JESSE DELGADO	Electric Utility	114.17
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475928	02264864	DISPENSING FEE	Electric Utility	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475929	02256119	SAFETY - AMANDO FERRARIS	General Fund	134.38
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475929	02256119	DISPENSING FEE	General Fund	28.00
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475930	02252158	SAFETY TINT - ARMANDO FERRARIS	General Fund	111.44
07/31/2020	HOYA OPTICAL LABS OF AMERICA, INC.	00475930	02252158	DISPENSING FEE	General Fund	28.00
				Total for Payment No.:		1,198.68

Payment No: 644904

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	HUGHES NETWORK SYSTEMS LLC	00475230	B1-362479611	METER SVC G2 ENERGY JUL20	Electric Utility	101.94
				Total for Payment No.:		101.94

Payment No: 644905

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	IDENTIFIRE SAFETY	00475003	19545	G1 MASK IDENTIFIRE NAMETAGS	General Fund	1,213.65
				Total for Payment No.:		1,213.65

Payment No: 644906

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INDIGO/HAMMOND & PLAYLE ARCHITECTS, LLP	00475996	20263-4	PROFESSIONAL SERVICE AGREEMENT	General Fund	1,200.00
				Total for Payment No.:		1,200.00

Payment No: 644907

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INDUSTRIAL PLUMBING SUPPLY	00475435	87960	TOUCHLESS FAUCET - COVID	General Fund	5,335.27
07/31/2020	INDUSTRIAL PLUMBING SUPPLY	00475436	87935	REPAIR KITS	General Fund	216.36
				Total for Payment No.:		5,551.63

Payment No: 644908

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INDUSTRIAL SCIENTIFIC CORP	00475671	2339715	INET SUBSC 6/30/20-7/29/2020	Electric Utility	677.11
				Total for Payment No.:		677.11

Payment No: 644909

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INNOVATIVE INTERFACES INC	00475428	INV-INC25839	Annual Resource Sharing	General Fund	20,979.20
07/31/2020	INNOVATIVE INTERFACES INC	00475429	INV-INC25838	Annual Sierra Software Sub	General Fund	115,644.53
				Total for Payment No.:		136,623.73

Payment No: 644910

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INTER DISPOSAL CORP OF CA	00475423	5127-000035537	REMOVALTIMBR/TREATED/OLD POLES	Electric Utility Construction	1,012.55
				Total for Payment No.:		1,012.55

Payment No: 644911

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	INTERNAP NETWORK SERVICES CORP	00475454	B1-14403632	INTERNET ACCESS	Information Technology Service	1,716.63
				Total for Payment No.:		1,716.63

Payment No: 644912

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	IRON MOUNTAIN	00475456	202152610	DATA STORAGE	Information Technology Service	1,842.38
				Total for Payment No.:		1,842.38

Payment No: 644913

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	JET MULCH INC	00475358	13789-OL	ENGINEERED WOOD FIBER INSTALLE	General Fund	3,213.05
07/31/2020	JET MULCH INC	00475358	13789-OL	MATERIALS	General Fund	3,316.87
				Total for Payment No.:		6,529.92

Payment No: 644914

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	JOHNSTONE SUPPLY	00475437	25-S100647387.001	SUPPLIES	General Fund	160.86
				Total for Payment No.:		160.86

Payment No: 644915

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	JOVENVILLE LLC	00476035	20-6415	Graphic Design Services	General Fund	4,803.50
07/31/2020	JOVENVILLE LLC	00476036	20-6416	Graphic Design Services	General Fund	4,850.00
				Total for Payment No.:		9,653.50

Payment No: 644916

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	KALLCENTS	00475062	E42516063020	Monthly Q Card	General Fund	20.71
				Total for Payment No.:		20.71

Payment No: 644917

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	KELLY-MOORE PAINT CO	00475751	816-00000119408	SUPPLIES - TRAFFIC MAINTENANCE	General Fund	1,873.49
				Total for Payment No.:		1,873.49

Payment No: 644918

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	KIER & WRIGHT	00475614	247706	TOPOGRAPHICAL SURVEYING SERVIC	Electric Utility Construction	34,317.00
				Total for Payment No.:		34,317.00

Payment No: 644919

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	KONE INC	00475438	921296343	TASMAN EMERGENCY REPAIR	General Fund	19,820.40
07/31/2020	KONE INC	00475438	921296343	MATERIALS	General Fund	4,186.77
				Total for Payment No.:		24,007.17

Payment No: 644920

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	KRAFT INDUSTRIAL SUPPLY	00475533	35241	3/4" 150 FULL FACE GASKETS	Electric Utility	66.29
				Total for Payment No.:		66.29

Payment No: 644921

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

07/31/2020	LAWSON PRODUCTS, INC.	00475277	9307659892	PARTS- V#3016	Fleet Operation Fund	17.49
				Total for Payment No.:		17.49

Payment No: 644922

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	LEADMAN ELECTRONICS USA, INC	00475511	61768-05 CPV JUN-2020	PBI SOLAR PROD PYMT #56 JUN 20	Elec OperatingGrant Trust Fund	2,192.12
				Total for Payment No.:		2,192.12

Payment No: 644923

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	LEXIPOL LLC	00475056	INV2063	FY 20/21 policy mnul. subscrip	General Fund	20,302.00
				Total for Payment No.:		20,302.00

Payment No: 644924

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	LN CURTIS & SONS	00474998	PINV566241	WILDLAND SUPPLIES	General Fund	13,191.87
07/31/2020	LN CURTIS & SONS	00474999	PINV566249	WILDLAND SUPPLIES	General Fund	908.17
07/31/2020	LN CURTIS & SONS	00475002	INV397823	ANNUAL HURST TOOL MAINT.	General Fund	3,000.00
07/31/2020	LN CURTIS & SONS	00475002	INV397823	HURST TOOL	General Fund	163.50
07/31/2020	LN CURTIS & SONS	00475121	INV400917	WILDLAND HOSE PACK	General Fund	490.50
07/31/2020	LN CURTIS & SONS	00475123	INV401308	WILDLAND BORE, FILE AND GPS	General Fund	1,515.18
				Total for Payment No.:		19,269.22

Payment No: 644925

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MARK ISKRA	00471732	04/14/20 CLASS REFUND	PARKS DEPT REFUND	General Fund	110.00
				Total for Payment No.:		110.00

Payment No: 644926

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MCKENDRY DOOR SALES INC	00475984	31458	APPARATUS BAY DOOR REPAIRS - I	General Fund	1,125.00
07/31/2020	MCKENDRY DOOR SALES INC	00475985	31484	APPARATUS BAY DOOR REPAIRS - I	General Fund	150.00
07/31/2020	MCKENDRY DOOR SALES INC	00475986	31485	APPARATUS BAY DOOR REPAIRS - I	General Fund	300.00
07/31/2020	MCKENDRY DOOR SALES INC	00476138	31393	TASMAN GARAGE REPAIR	General Fund	2,116.00
				Total for Payment No.:		3,691.00

Payment No: 644927

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MEASUREMENT SPECIALTIES INC	00475306	3670015533	SEWER PARTS	Storm Drain	2,384.11
07/31/2020	MEASUREMENT SPECIALTIES INC	00475308	3670015549	SEWER PARTS	Sewer Utility	1,206.91
				Total for Payment No.:		3,591.02

Payment No: 644928

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	MUNICIPAL MAINTENANCE EQUIPMNT	00475287	0150065-IN	PARTS- V#3119	Fleet Operation Fund	415.06
07/31/2020	MUNICIPAL MAINTENANCE EQUIPMNT	00475288	0150132-IN	PARTS- V#3119	Fleet Operation Fund	792.92
				Total for Payment No.:		1,207.98

Payment No: 644929

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NAPA AUTO PARTS	00475290	5983-565273	PARTS- V#3308	Fleet Operation Fund	3.98
07/31/2020	NAPA AUTO PARTS	00475296	5983-566865	PARTS- V#3323	Fleet Operation Fund	8.02
07/31/2020	NAPA AUTO PARTS	00475297	5983-568099	PARTS- V#3477	Fleet Operation Fund	62.83
07/31/2020	NAPA AUTO PARTS	00475298	5983-568221	PARTS- V#2890	Fleet Operation Fund	112.14
07/31/2020	NAPA AUTO PARTS	00475299	5983-568225	PARTS- STOCK	Fleet Operation Fund	301.65
07/31/2020	NAPA AUTO PARTS	00475300	5983-568549	PARTS- V#2890	Fleet Operation Fund	26.92
07/31/2020	NAPA AUTO PARTS	00475301	5983-568525	CREDIT- PART RETURNED	Fleet Operation Fund	-12.00

07/31/2020	NAPA AUTO PARTS	00475302	5983-568556	PARTS- STOCK	Fleet Operation Fund	30.56
07/31/2020	NAPA AUTO PARTS	00475310	5983-568621	PARTS- STOCK	Fleet Operation Fund	239.02
07/31/2020	NAPA AUTO PARTS	00475311	5983-568644	PARTS- STOCK	Fleet Operation Fund	64.55
07/31/2020	NAPA AUTO PARTS	00475312	5983-568680	PARTS- V#3498	Fleet Operation Fund	8.73
07/31/2020	NAPA AUTO PARTS	00475313	5983-568750	PARTS- V#3498	Fleet Operation Fund	58.85
07/31/2020	NAPA AUTO PARTS	00475314	5983-569462	PARTS- STOCK	Fleet Operation Fund	133.17
07/31/2020	NAPA AUTO PARTS	00475315	5983-569646	PARTS- STOCK	Fleet Operation Fund	94.70
07/31/2020	NAPA AUTO PARTS	00475316	5983-569713	PARTS- 3518	Fleet Operation Fund	10.45
07/31/2020	NAPA AUTO PARTS	00475317	5983-569891	PARTS- STOCK	Fleet Operation Fund	261.51
07/31/2020	NAPA AUTO PARTS	00475318	5983-570582	PARTS-SVAC6	Fleet Operation Fund	13.74
07/31/2020	NAPA AUTO PARTS	00475319	5983-570652	PARTS- SVAC6	Fleet Operation Fund	142.77
07/31/2020	NAPA AUTO PARTS	00475320	5983-570746	PARTS-STOCK	Fleet Operation Fund	330.82
				Total for Payment No.:		1,892.41

Payment No: 644930

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NEW IMAGE LANDSCAPE COMPANY	00475752	119359	CSC LANDSCAPE MAINT JUNE 2020	General Fund	2,935.00
07/31/2020	NEW IMAGE LANDSCAPE COMPANY	00475752	119359	VTA LANDSCAPE MAINT JUNE 2020	General Fund	700.00
07/31/2020	NEW IMAGE LANDSCAPE COMPANY	00475752	119359	SVP LANDSCAPE MAINT JUNE 2020	Electric Utility	3,000.00
07/31/2020	NEW IMAGE LANDSCAPE COMPANY	00475752	119359	SVP DVR POWER STA. MAINT JUNE	Electric Utility	600.00
				Total for Payment No.:		7,235.00

Payment No: 644931

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NEWGEN STRATEGIES	00475616	9834	RATES, COST OF SVC ANALYSIS	Electric Utility	7,875.00
				Total for Payment No.:		7,875.00

Payment No: 644932

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

07/31/2020	NI GOVERNMENT SERVICES	00476040	202005_290855_1	MONTHLY FEE SATTELITE MAY	General Fund	77.37
07/31/2020	NI GOVERNMENT SERVICES	00476041	20062908551	MONTHLY FEE SATTELITE JUN	General Fund	77.37
				Total for Payment No.:		154.74

Payment No: 644933

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NI GOVERNMENT SERVICES	00475120	20063168271	SATELLITE PHONE SERVICE - FIRE	General Fund	77.37
				Total for Payment No.:		77.37

Payment No: 644934

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NINYO & MOORE GEOTECHNICAL	00476001	239970	AGREEMENT FOR MATERIALS TESTIN	General Fund	918.00
				Total for Payment No.:		918.00

Payment No: 644935

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	NOR-CAL OVERHEAD INC	00475803	37506	Bento Gate Repair	General Fund	19,026.97
07/31/2020	NOR-CAL OVERHEAD INC	00475803	37506	BENTO GATE REPAIR	General Fund	17,550.00
				Total for Payment No.:		36,576.97

Payment No: 644936

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	OLDCASTLE INFRASTRUCTURE	00475278	030289969	24 GRADE RING	Sewer Utility	1,057.84
				Total for Payment No.:		1,057.84

Payment No: 644937

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PACIFIC COAST PETROLEUM INC.	00475330	964035	PARTS- STOCK	Fleet Operation Fund	5,766.10

				Total for Payment No.:		5,766.10

Payment No: 644938

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PACIFIC WATER ART INC	00475754	64379	FRANKLIN SQ FOUNTAIN JUL 2020	Downtown Parking Maintenance D	990.00
07/31/2020	PACIFIC WATER ART INC	00475754	64379	SC CIVIC CENTER FOUNTAIN JUL20	General Fund	1,100.00
07/31/2020	PACIFIC WATER ART INC	00475754	64379	SC CITY HALL FOUNTAIN JUL 2020	General Fund	600.00
				Total for Payment No.:		2,690.00

Payment No: 644939

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PAETEC	00476069	72748980	Annual ongoing telephone servi	Information Technology Service	4,976.52
				Total for Payment No.:		4,976.52

Payment No: 644940

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PASO ROBLES TANK INC	00475823	4927RET	TO RECORD RETENTION ON INV	Water Utility Construction	4,095.00
07/31/2020	PASO ROBLES TANK INC	00475823	4927RET	TO RECORD RETENTION ON INV	Water Utility Construction	-4,095.00
				Total for Payment No.:		0.00

Payment No: 644941

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PENINSULA CRANE & RIGGING	00475650	1103	CRANE 4 HRS 7/14/20	Electric Utility	740.00
07/31/2020	PENINSULA CRANE & RIGGING	00475650	1103	RIGGER 4 HRS 7/14/20	Electric Utility	500.00
07/31/2020	PENINSULA CRANE & RIGGING	00475650	1103	5% FUEL/ENVIRONMENTAL FEE	Electric Utility	37.00
				Total for Payment No.:		1,277.00

Payment No: 644942

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PENINSULA UNIFORMS & EQUIPMENT	00475814	174835	Vest E Bailey	General Fund	823.07
07/31/2020	PENINSULA UNIFORMS & EQUIPMENT	00475818	174836	Vest I Banea	General Fund	823.07
				Total for Payment No.:		1,646.14

Payment No: 644943

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PETERSON TRACTOR CO	00475383	SW000441298	PARTS- V#2833 WO# 126802	Fleet Operation Fund	3,510.91
07/31/2020	PETERSON TRACTOR CO	00475383	SW000441298	LABOR- V#2833 WO# 126802	Fleet Operation Fund	7,180.68
07/31/2020	PETERSON TRACTOR CO	00475383	SW000441298	TXB ENV FEE- V#2833 WO#126802	Fleet Operation Fund	236.73
07/31/2020	PETERSON TRACTOR CO	00475383	SW000441298	TXB SUPPLIES-V#2833 WO#126802	Fleet Operation Fund	344.71
				Total for Payment No.:		11,273.03

Payment No: 644944

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PETERSON TRUCKS	00475384	416187M	PARTS- STOCK	Fleet Operation Fund	405.85
07/31/2020	PETERSON TRUCKS	00475385	416187MX1	PARTS- STOCK	Fleet Operation Fund	92.60
				Total for Payment No.:		498.45

Payment No: 644945

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	PIPE USERS GROUP	00475487	12038JUL2020	2020 PIPE USERS GROUP	Water Utility	200.00
07/31/2020	PIPE USERS GROUP	00475487	12038JUL2020	2020 PIPE USERS GROUP	Sewer Utility	200.00
				Total for Payment No.:		400.00

Payment No: 644946

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	POCO SOLAR ENERGY INC	00475281	116792	4X10 SOLAR PANELS	Water Utility	830.14

07/31/2020	POCO SOLAR ENERGY INC	00475282	116778	FAFCO RUBBER COUPLERS	Water Utility	314.08
				Total for Payment No.:		1,144.22

Payment No: 644947

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	POWER WORKS	00475000	11403	BK ANTENNA, CASE AND PLUGS	General Fund	910.48
				Total for Payment No.:		910.48

Payment No: 644948

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	R & B CO	00475826	S1937443.003	JANITORIAL SUPPLIES	Water Utility	3,753.96
				Total for Payment No.:		3,753.96

Payment No: 644949

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	R & B CO	00475291	S1945296.001	8" DUCTILE PIPE	Water Utility	6,623.49
07/31/2020	R & B CO	00475292	S1945299.001	VALVE	Water Utility	1,990.84
07/31/2020	R & B CO	00475293	S1945643.001	HYDRANT METER	Water Utility	3,753.96
07/31/2020	R & B CO	00475294	S1945732.001	COPPER SHUT OFF TOOL	Water Utility	699.28
07/31/2020	R & B CO	00475295	S1947219.001	GATE VALVE	Water Utility	350.51
07/31/2020	R & B CO	00475303	S1947849.001	6" HYMAX	Water Utility	643.42
07/31/2020	R & B CO	00475304	S1947849.002	6" HYMAX GRIP	Water Utility	643.42
07/31/2020	R & B CO	00475305	S1947062.001	MUE COMPRESSION PLUG	Water Utility	571.81
				Total for Payment No.:		15,276.73

Payment No: 644950

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	R.S. HUGHES COMPANY, INC.	00475130	78550663-00	MULTIRAE CALIBRATION AND CLEAN	General Fund	148.05
07/31/2020	R.S. HUGHES COMPANY, INC.	00475130	78550663-00	FILTERS	General Fund	39.42

				Total for Payment No.:		187.47

Payment No: 644951

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	REED & GRAHAM INC	00476032	976608	COLD MIX & BASE ROCK	Water Utility Construction	226.90
07/31/2020	REED & GRAHAM INC	00476032	976608	COLD MIX & BASE ROCK	Water Utility	90.77
07/31/2020	REED & GRAHAM INC	00476032	976608	COLD MIX & BASE ROCK	Electric Utility Construction	113.46
07/31/2020	REED & GRAHAM INC	00476032	976608	COLD MIX & BASE ROCK	Sewer Utility	22.69
				Total for Payment No.:		453.82

Payment No: 644952

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	REFLECTIVE APPAREL FACTORY INC	00475323	1931277	stadium trfc ctrl rain gear	General Fund	2,384.07
				Total for Payment No.:		2,384.07

Payment No: 644953

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	REGENTS OF THE UNIV OF CALIF	00476156	10943691	LEGAL REFERENCES	General Fund	230.29
07/31/2020	REGENTS OF THE UNIV OF CALIF	00476157	10947973	LEGAL REFERENCES	General Fund	307.45
07/31/2020	REGENTS OF THE UNIV OF CALIF	00476158	10949048	LEGAL REFERENCES	General Fund	230.29
				Total for Payment No.:		768.03

Payment No: 644954

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	RENNE PUBLIC LAW GROUP	00476139	4027	LEGAL SERVICES	Special Liability Insurance	505.00
				Total for Payment No.:		505.00

Payment No: 644955

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	ROBERT E. VAN HEUIT	00476037	1095	AMENDMENT NO. 1 TO AMENDED AND	Expendable Trust Funds	6,650.00
				Total for Payment No.:		6,650.00

Payment No: 644956

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SAN JOSE BOILER WORKS	00475362	10459	CHECKING/STARTING UP BOILERS	General Fund	601.50
				Total for Payment No.:		601.50

Payment No: 644957

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SAN JOSE MAILING	00476076	4188	MAILING FOR 1205 COLEMAN	General Fund	1,710.05
07/31/2020	SAN JOSE MAILING	00476076	4188	TAXABLE	General Fund	511.09
				Total for Payment No.:		2,221.14

Payment No: 644958

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SANTA CLARA LIGHTING, INC.	00475440	18663	TASMAN LIGHT	General Fund	333.54
07/31/2020	SANTA CLARA LIGHTING, INC.	00475441	18711	TASMAN LIGHTS	General Fund	500.31
07/31/2020	SANTA CLARA LIGHTING, INC.	00475442	18700	SUPPLIES	General Fund	164.86
				Total for Payment No.:		998.71

Payment No: 644959

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SCHAAF & WHEELER CONSULTING	00475998	32665	AGREEMENT FOR CONSULTING SERVI	Storm Drain	3,961.50
				Total for Payment No.:		3,961.50

Payment No: 644960

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SCP DISTRIBUTORS LLC	00475391	36001665	SOLARTOUCH SOLAR	General Fund	318.25
				Total for Payment No.:		318.25

Payment No: 644961

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SHRED-IT USA LLC	00475532	8129973056	1705 ELEC. SHRED JUNE2020	Electric Utility	323.24
07/31/2020	SHRED-IT USA LLC	00475822	8129984149	Shredding Service	General Fund	622.02
				Total for Payment No.:		945.26

Payment No: 644962

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SHREDLOGIX INC	00476029	0008262	SHREDDING SERVICES FOR COMMUN	General Fund	238.32
07/31/2020	SHREDLOGIX INC	00476029	0008262	SHREDDING SERVICES FOR COMMUN	General Fund	31.68
				Total for Payment No.:		270.00

Payment No: 644963

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SPRINT COMMUNICATIONS	00475060	LCI-337615	GPS Locate 20-204104	General Fund	100.00
				Total for Payment No.:		100.00

Payment No: 644964

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	STC INC	00476004	2038422	Refurbish five (5) Control Hea	Streets And Highways	756.92
07/31/2020	STC INC	00476004	2038422	Standard Control Head w/20 ft	Streets And Highways	2,058.81
				Total for Payment No.:		2,815.73

Payment No: 644965

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	STRATUS VIDEO, LLC	00475013	SIN224649	VIDEO TRANSLATION	General Fund	18.00
				Total for Payment No.:		18.00

Payment No: 644966

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	STRYKER SALES CORPORATION	00475491	2947537M	4G MODEMS	Fire Operating Grant Fund	8,826.55
07/31/2020	STRYKER SALES CORPORATION	00475491	2947537M	QUANTITY 18 4G MODEMS; PRODUCT	General Fund	4,187.45
				Total for Payment No.:		13,014.00

Payment No: 644967

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	SUNNYVALE FORD	00475390	170071	PARTS- V#3402	Fleet Operation Fund	25.79
07/31/2020	SUNNYVALE FORD	00475392	170433	PARTS- V#3209	Fleet Operation Fund	307.52
07/31/2020	SUNNYVALE FORD	00475393	170508	PARTS- V#3370	Fleet Operation Fund	67.02
07/31/2020	SUNNYVALE FORD	00475394	170553	PARTS- V#3100	Fleet Operation Fund	156.65
				Total for Payment No.:		556.98

Payment No: 644968

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TABLET COMMAND, INC	00475014	INV-0358	ANNUAL LICENSE 7/1/20-6/30/21	General Fund	27,650.00
				Total for Payment No.:		27,650.00

Payment No: 644969

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TARGET SPECIALTY PRODUCTS INC	00475365	INVP500165139	LIFELINE HERBICIDE	General Fund	928.64
				Total for Payment No.:		928.64

Payment No: 644970

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TECH LOGIC CORPORATION	00476149	RC003316	PM 1 - ONE VISIT - 29000005	General Fund	4,100.00
				Total for Payment No.:		4,100.00

Payment No: 644971

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TEREX USA LLC	00475309	7039755	HEAVY EQUIPMENT REPAIR	Water Utility	1,754.69
07/31/2020	TEREX USA LLC	00475309	7039755	MATERIAL	Water Utility	1,559.55
				Total for Payment No.:		3,314.24

Payment No: 644972

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	THOMSON WEST GROUP	00475061	842567274	CLEAR 07/2020	General Fund	279.81
07/31/2020	THOMSON WEST GROUP	00475061	842567274	CLEAR 07/2020	General Fund	279.82
				Total for Payment No.:		559.63

Payment No: 644973

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475443	3005356215	SENIOR CENTER ELEV 1	General Fund	23.22
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475443	3005356215	DVR	Electric Utility	93.64
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475443	3005356215	BERMAN	General Fund	93.64
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475443	3005356215	CRC	General Fund	23.41
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475443	3005356215	SENIOR CENT ELEV 2	General Fund	187.28
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475443	3005356215	GUN RANGE	General Fund	23.41
07/31/2020	THYSSENKRUPP ELEVATOR	00475443	3005356215	FIRE	General Fund	93.64

	CORPORATION					
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475443	3005356215	CITY HALL	General Fund	93.64
07/31/2020	THYSSENKRUPP ELEVATOR CORPORATION	00475827	6000453252	Assist with Fire Testing	General Fund	879.00
				Total for Payment No.:		1,510.88

Payment No: 644974

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TIBURON INC	00475057	283505	ARS RMS Maintenance Fee 20/21	General Fund	82,191.38
				Total for Payment No.:		82,191.38

Payment No: 644975

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TMT ENTERPRISES INC	00475369	04889	STAB GOLD FINES	General Fund	362.71
07/31/2020	TMT ENTERPRISES INC	00475370	04888	TOPSOIL	General Fund	1,034.19
				Total for Payment No.:		1,396.90

Payment No: 644976

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	TURF STAR INC	00475397	7112200-00	PARTS- V#3324	Fleet Operation Fund	235.16
				Total for Payment No.:		235.16

Payment No: 644977

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNIFIRST CORPORATION	00474641	385 0391905	GARMENT RENT/CLEAN SVCS DVR	Electric Utility	629.42
07/31/2020	UNIFIRST CORPORATION	00475757	385 0395940	GARMENT RENT/CLEAN SVCS DVR	Electric Utility	391.10
07/31/2020	UNIFIRST CORPORATION	00475758	385 0394942	GARMENT RENT/CLEAN SVCS DVR	Electric Utility	609.42
07/31/2020	UNIFIRST CORPORATION	00475759	385 0394943	GARMENT RENTAL/CLEANING SVP IT	Electric Utility	56.47
07/31/2020	UNIFIRST CORPORATION	00475759	385 0394943	DELIVERY FEE SVP	Electric Utility	13.00

07/31/2020	UNIFIRST CORPORATION	00475783	385 0394944	GARMENT RENTAL/CLEANING T&D	Electric Utility	1,034.18
07/31/2020	UNIFIRST CORPORATION	00475783	385 0394944	NEW CLOTHES M. GUERRERO	Electric Utility	4.25
07/31/2020	UNIFIRST CORPORATION	00475784	385 0394946	GARMENT RENTAL/CLEANING 881ENG	Electric Utility	133.33
07/31/2020	UNIFIRST CORPORATION	00475785	385 0394950	GARMENT RENT/CLEAN SVCS SUB	Electric Utility	576.20
07/31/2020	UNIFIRST CORPORATION	00475786	385 0394951	GARMENT RENT/CLEAN SVCS AD1705	Electric Utility	97.19
07/31/2020	UNIFIRST CORPORATION	00475787	385 0394986	GARMENT RENT/CLEANING SVC CH	Electric Utility	134.95
07/31/2020	UNIFIRST CORPORATION	00475788	385 0395941	GARMENT RENTAL/CLEANING SVP IT	Electric Utility	39.73
07/31/2020	UNIFIRST CORPORATION	00475788	385 0395941	DELIVERY FEE SVP	Electric Utility	13.00
07/31/2020	UNIFIRST CORPORATION	00475789	385 0395942	GARMENT RENTAL/CLEANING T&D	Electric Utility	722.32
07/31/2020	UNIFIRST CORPORATION	00475790	385 0395944	GARMENT RENTAL/CLEANING 881ENG	Electric Utility	84.31
07/31/2020	UNIFIRST CORPORATION	00475791	385 0395947	GARMENT RENT/CLEAN SVCS SUB	Electric Utility	402.71
07/31/2020	UNIFIRST CORPORATION	00475792	385 0395948	GARMENT RENT/CLEAN SVCS AD1705	Electric Utility	65.33
07/31/2020	UNIFIRST CORPORATION	00475793	385 0395989	GARMENT RENT/CLEANING SVC CH	Electric Utility	95.93
				Total for Payment No.:		5,102.84

Payment No: 644978

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNIQUE TOWING	00475398	20-151898	TOW- V#2603 WO#127562	Fleet Operation Fund	107.50
07/31/2020	UNIQUE TOWING	00475399	20-152164	TOW- V#3321 WO# 127238	Fleet Operation Fund	215.00
07/31/2020	UNIQUE TOWING	00475400	20-152165	TOW- V#2833 WO# 126802	Fleet Operation Fund	215.00
07/31/2020	UNIQUE TOWING	00475401	20-152638	TOW-V#3321 WO# 127238	Fleet Operation Fund	312.50
07/31/2020	UNIQUE TOWING	00476038	00152923	TOW #3053	General Fund	107.50
				Total for Payment No.:		957.50

Payment No: 644979

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNITED PARCEL SERVICE	00476075	00009882E5280A	CITY CLERK	General Fund	31.00
				Total for Payment No.:		31.00

Payment No: 644980

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNITED SITE SERVICES INC	00475561	114-10552300	RESTROOM RENT@SPACE 6/17-7/14	Electric Utility	10.91
07/31/2020	UNITED SITE SERVICES INC	00475561	114-10552300	WKLY RSTRM SRV@SPACE 6/17-7/14	Electric Utility	55.00
07/31/2020	UNITED SITE SERVICES INC	00475561	114-10552300	ENVIRONMENTAL FEE	Electric Utility	6.99
07/31/2020	UNITED SITE SERVICES INC	00475562	114-10526153	RESTROOM RENT@LAF 6/11-7/8	Electric Utility	10.91
07/31/2020	UNITED SITE SERVICES INC	00475562	114-10526153	WKLY RESTRM SRV @LAF 6/11-7/8	Electric Utility	55.00
07/31/2020	UNITED SITE SERVICES INC	00475562	114-10526153	ENVIRONMENTAL FEE	Electric Utility	6.99
07/31/2020	UNITED SITE SERVICES INC	00475563	114-10516507	ADA SINK @SERRA SUB 6/9-7/6	Electric Utility Construction	10.91
07/31/2020	UNITED SITE SERVICES INC	00475563	114-10516507	WKLY SINK SRV@SERRA 6/9-7/6	Electric Utility Construction	138.00
07/31/2020	UNITED SITE SERVICES INC	00475563	114-10516507	ENVIRONMENTAL FEE	Electric Utility Construction	15.92
07/31/2020	UNITED SITE SERVICES INC	00475564	114-10577943	RESTROOM RENT@LAF 5/14-6/10	Electric Utility	10.91
07/31/2020	UNITED SITE SERVICES INC	00475564	114-10577943	WKLY RESTRM SRV @LAF 3/19-4/15	Electric Utility	55.00
07/31/2020	UNITED SITE SERVICES INC	00475564	114-10577943	ENVIRONMENTAL FEE	Electric Utility	6.99
				Total for Payment No.:		383.53

Payment No: 644981

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	UNIVAR SOLUTIONS USA INC	00475531	48651171	DVR CHEM DEL SOD HYP JUL2020	Electric Utility	958.90
07/31/2020	UNIVAR SOLUTIONS USA INC	00475531	48651171	CALIFORNIA MILL FEE	Electric Utility	20.85
07/31/2020	UNIVAR SOLUTIONS USA INC	00475647	48659213	DVR CHEM DEL SOD BISUL JUL20	Electric Utility	670.27
07/31/2020	UNIVAR SOLUTIONS USA INC	00475649	48659212	DVR CHEM DEL SOD HYP JUL2020	Electric Utility	996.07
				Total for Payment No.:		2,646.09

Payment No: 644982

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	V&A CONSULTING ENGINEERS	00475997	19449	SANITARY SEWER SYSTEM INFLOW A	Sewer Utility Construction	13,429.16

07/31/2020	V&A CONSULTING ENGINEERS	00476000	19523	SANITARY SEWER SYSTEM INFLOW A	Sewer Utility Construction	24,278.50
				Total for Payment No.:		37,707.66

Payment No: 644983

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VANCO OF NORTHERN CALIFORNIA	00476133	4728	ADDL OPTIONS FOR PO 24616	Electric Utility	829.00
07/31/2020	VANCO OF NORTHERN CALIFORNIA	00476133	4728	ONAN 5.5KW GENERATOR, CCM ENCL	Electric Utility	14,180.29
07/31/2020	VANCO OF NORTHERN CALIFORNIA	00476133	4728	FREIGHT FOR LEGEND PARTS	Electric Utility	327.24
07/31/2020	VANCO OF NORTHERN CALIFORNIA	00476133	4728	UPFIT OPTIONS, PARTS & ACCESSO	Electric Utility	13,662.16
07/31/2020	VANCO OF NORTHERN CALIFORNIA	00476133	4728	1 HOUR INSTALLATION LABOR COST	Electric Utility	2,000.00
				Total for Payment No.:		30,998.69

Payment No: 644984

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VERIZON WIRELESS	00475353	9857300150	FIRE	General Fund	514.47
				Total for Payment No.:		514.47

Payment No: 644985

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VERIZON WIRELESS	00475354	9857300151	CMO	General Fund	342.09
07/31/2020	VERIZON WIRELESS	00475354	9857300151	CMO	General Government - Other	38.01
07/31/2020	VERIZON WIRELESS	00475354	9857300151	CMO	Information Technology Service	20.35
				Total for Payment No.:		400.45

Payment No: 644986

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VERIZON WIRELESS	00475357	9857309851	METER READERS	General Fund	391.10

				Total for Payment No.:		391.10

Payment No: 644987

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VERIZON WIRELESS	00475360	9857315519	FIRE EMS	General Fund	158.36
				Total for Payment No.:		158.36

Payment No: 644988

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	VERIZON WIRELESS	00475368	9856565013	POLICE	General Fund	2,128.56
07/31/2020	VERIZON WIRELESS	00475368	9856565013	POLICE	General Fund	114.03
07/31/2020	VERIZON WIRELESS	00475368	9856565013	POLICE	General Fund	38.01
07/31/2020	VERIZON WIRELESS	00475368	9856565013	POLICE	General Fund	38.01
07/31/2020	VERIZON WIRELESS	00475368	9856565013	FIRE	General Fund	1,026.27
07/31/2020	VERIZON WIRELESS	00475368	9856565013	STREETS	General Fund	114.03
07/31/2020	VERIZON WIRELESS	00475368	9856565013	PARKS	General Fund	38.01
07/31/2020	VERIZON WIRELESS	00475368	9856565013	LIBRARY	General Fund	38.01
				Total for Payment No.:		3,534.93

Payment No: 644989

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	W-TRANS	00476009	24479	DESIGN AGREEMENT FOR THE LICK	Streets And Highways	9,830.00
07/31/2020	W-TRANS	00476010	24601	DESIGN AGREEMENT FOR THE LICK	Streets And Highways	2,600.00
07/31/2020	W-TRANS	00476011	24851	DESIGN AGREEMENT FOR THE LICK	Streets And Highways	195.00
07/31/2020	W-TRANS	00476018	24918	DESIGN AGREEMENT FOR THE LICK	Streets And Highways	140.00
				Total for Payment No.:		12,765.00

Payment No: 644990

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	WARDELL AUTO INTERIORS AND TOPS, LLC	00475402	7359	PARTS- V#3357	Electric Utility	54.50
07/31/2020	WARDELL AUTO INTERIORS AND TOPS, LLC	00475402	7359	LABOR- V#3357	Electric Utility	247.00
				Total for Payment No.:		301.50

Payment No: 644991

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475447	8230456	HEART OF VALLEY	Public Buildings	50.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475448	8204747	1500 CIVIC CENTER	General Government - Other	45.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475449	8221638	SCCC	Convention Cnt Maintenance Dis	70.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	JUNE 2020 BUILD MTC	General Fund	336.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	BERRYESSA ADOBE	General Fund	63.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	PD	General Fund	135.41
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	STREETS	General Fund	201.41
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	FIRE	General Fund	734.64
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	CENTRAL LIB	General Fund	153.41
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	NORTHSIDE LIB	General Fund	91.66
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	MISSION LIB	General Fund	74.41
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	PARKS	General Fund	893.12
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	CEMETRY	Cemetery	63.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	SVP DUANE	Electric Utility	63.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	SVP ROBERS	Electric Utility	63.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	SVP MARTIN	Electric Utility	74.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	PURCHASING WAREHOUSE	General Fund	63.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	EOC	General Fund	73.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	HARRIS LASS	Public Buildings	63.00

07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	HEADEN INMAN	Public Buildings	63.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	JAMISON BROWN	Public Buildings	63.75
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	TRITON	Public Buildings	91.66
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	MORSE MANSION	General Government - Other	85.00
07/31/2020	WESTERN EXTERMINATOR COMPANY	00475450	8184767	TASMAN	General Fund	217.00
				Total for Payment No.:		3,830.47

Payment No: 644992

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	WOODARD & CURRAN, INC	00476143	178043	AGREEMENT FOR DESIGN SERVICES	Sewer Utility Construction	18,186.00
07/31/2020	WOODARD & CURRAN, INC	00476144	177382	AGREEMENT FOR DESIGN SERVICES	Sewer Utility Construction	22,233.10
				Total for Payment No.:		40,419.10

Payment No: 644993

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	WORLD EXPRESS TRADING INC	00475227	44010	1241 AD PR	General Fund	1,375.00
07/31/2020	WORLD EXPRESS TRADING INC	00475228	44011	1235 AD PR	General Fund	330.00
				Total for Payment No.:		1,705.00

Payment No: 644994

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
07/31/2020	YEI ENGINEERS, INC.	00476005	1735-18	AGREEMENT FOR DESIGN SVCS FOR	Public Buildings	10,640.16
07/31/2020	YEI ENGINEERS, INC.	00476006	1735-17	AGREEMENT FOR DESIGN SVCS FOR	Public Buildings	4,836.10
				Total for Payment No.:		15,476.26

Overall Total 1,228,817.80

Sorted by Payment Number

Payment No: 016673

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BESS TESTLAB INC	00475982	40874	POTHOLE/UNDRGRND LOCATE APR20	Electric Utility Construction	2,349.48
08/07/2020	BESS TESTLAB INC	00476012	40830	PTHLE/UNDRGRND LOCAT FEB-APR20	Electric Utility Construction	35,795.00
				Total for Payment No.:		38,144.48

Payment No: 016674

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	3DEGREES GROUP INC	00475980	18773	SC GREEN POWER REC SUP MAY20	Electric Utility	35,801.85
08/07/2020	3DEGREES GROUP INC	00475980	18773	WEST/NAT WIND BULK REC MAY20	Electric Utility	1,273.00
				Total for Payment No.:		37,074.85

Payment No: 016675

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ACT ENVIRO	00476132	290914	ANALYTICALS	Electric Utility	250.00
08/07/2020	ACT ENVIRO	00476132	290914	ENVIRONMENTAL SERVICE CHARGE	Electric Utility	89.52
08/07/2020	ACT ENVIRO	00476132	290914	8 HR LABOR CHEMIST 7/22/20	Electric Utility	536.00
08/07/2020	ACT ENVIRO	00476132	290914	SUPPLIES	Electric Utility	150.00
08/07/2020	ACT ENVIRO	00476132	290914	HAND PUMP LARGE	Electric Utility	50.00
08/07/2020	ACT ENVIRO	00476132	290914	PPE GEAR LEVEL D	Electric Utility	8.00
08/07/2020	ACT ENVIRO	00476132	290914	GEAR TRUCK (BOB TAIL) 7/22/20	Electric Utility	125.00
				Total for Payment No.:		1,208.52

Payment No: 016676

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	AIR FILTER SUPPLY INC	00475674	I424974	BELTS	General Fund	20.32
08/07/2020	AIR FILTER SUPPLY INC	00475675	I426179	SUPPLIES	General Fund	190.88
08/07/2020	AIR FILTER SUPPLY INC	00475676	I426817	FILTERS	General Fund	505.57
08/07/2020	AIR FILTER SUPPLY INC	00475677	I426855	SUPPLIES	General Fund	109.60
				Total for Payment No.:		826.37

Payment No: 016677

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ALL GUARD ALARM SYSTEMS INC	00475620	S100572	TRANSMITTER/RECEIVER FOR PD	General Fund	360.81
08/07/2020	ALL GUARD ALARM SYSTEMS INC	00475620	S100572	LABOR	General Fund	225.00
				Total for Payment No.:		585.81

Payment No: 016678

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ANIXTER INC.	00475679	22K369985	CYLINDER PINS	General Fund	419.90
				Total for Payment No.:		419.90

Payment No: 016679

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ASPEN ENVIRONMENTAL GROUP	00475981	3360.003-03	ENV SRVS PROJ MGMT JUN 2020	Electric Utility	2,071.94
				Total for Payment No.:		2,071.94

Payment No: 016680

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BAKER & TAYLOR BOOKS	00475530	CI231311	1241 AD BK	General Fund	1,132.59
08/07/2020	BAKER & TAYLOR BOOKS	00475599	CI231383	1241 AD BK	General Fund	1,950.70
08/07/2020	BAKER & TAYLOR BOOKS	00476164	CI231608	1233 AD BK	General Fund	20.59

08/07/2020	BAKER & TAYLOR BOOKS	00476166	CI231609	1241 AD BK	General Fund	2,475.55
				Total for Payment No.:		5,579.43

Payment No: 016681

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BAY AREA DATA SUPPLY	00475542	206679	PRINTERS SUPPLIES	General Fund	316.10
08/07/2020	BAY AREA DATA SUPPLY	00475682	206678	TONERS - M506, P4515	General Fund	316.10
				Total for Payment No.:		632.20

Payment No: 016682

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BOUNDTREE MEDICAL LLC	00475631	83538604	MEDICAL SUPPLIES - COVID19	Other City Dept Op Grant Fund	42.47
08/07/2020	BOUNDTREE MEDICAL LLC	00475632	83429795	MEDICAL SUPPLIES	General Fund	58.60
08/07/2020	BOUNDTREE MEDICAL LLC	00475633	83682980	MEDICAL SUPPLIES	General Fund	239.77
08/07/2020	BOUNDTREE MEDICAL LLC	00475634	CREDT000000027063	2019 Q4 NALOXONE REBATE	General Fund	-60.00
08/07/2020	BOUNDTREE MEDICAL LLC	00475635	CREDT000000028264	2020 Q1 NALOXONE REBATE	General Fund	-120.00
08/07/2020	BOUNDTREE MEDICAL LLC	00475825	83696507	Gloves Size M	Other City Dept Op Grant Fund	253.42
08/07/2020	BOUNDTREE MEDICAL LLC	00475836	83686120	CPR MANNEQUIN	Fire Operating Grant Fund	668.41
08/07/2020	BOUNDTREE MEDICAL LLC	00475837	83689364	MEDICAL SUPPLIES - MEDS NO TAX	General Fund	33.86
08/07/2020	BOUNDTREE MEDICAL LLC	00475838	83691144	MEDICAL SUPPLIES - COVID19	Other City Dept Op Grant Fund	14.15
08/07/2020	BOUNDTREE MEDICAL LLC	00475839	83692657	MEDICAL SUPPLIES - COVID19	Other City Dept Op Grant Fund	28.31
				Total for Payment No.:		1,158.99

Payment No: 016683

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BURLINGTON SAFETY LAB INC	00475906	40445	RUBBER GLOVE CL0 TYPE 1	Electric Utility	66.26

08/07/2020	BURLINGTON SAFETY LAB INC	00475906	40445	GLOVE ELECTRIFLEX CL2 TYPE I	Electric Utility	199.46
				Total for Payment No.:		265.72

Payment No: 016684

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CAVENDISH SQUARE PUBLISHING LLC	00475600	CAL323935I	1231 JUV BK	General Fund	194.01
				Total for Payment No.:		194.01

Payment No: 016685

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CINTAS CORP #630	00475680	4056372106	UNIFORMS	General Fund	82.30
08/07/2020	CINTAS CORP #630	00475697	4050435338	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475698	4050948833	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475699	4051496602	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475700	4052205185	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475701	4052205141	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475702	4052205962	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475703	4052205963	CLEANING SUPPLIES	General Fund	37.14
08/07/2020	CINTAS CORP #630	00475704	4052777326	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475705	4052777433	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475706	4052779599	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475707	4053446880	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475708	4053448533	CLEANING SUPPLIES	General Fund	52.46
08/07/2020	CINTAS CORP #630	00475709	4053448461	CLEANING SUPPLIES	General Fund	54.48
08/07/2020	CINTAS CORP #630	00475710	4053446938	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475711	4054067753	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475712	4054067639	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475713	4054070144	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475714	4054070143	CLEANING SUPPLIES	General Fund	52.46

08/07/2020	CINTAS CORP #630	00475715	4054070112	CLEANING SUPPLIES	General Fund	54.48
08/07/2020	CINTAS CORP #630	00475716	4054545712	CLEANING SUPPLIES	General Fund	53.68
08/07/2020	CINTAS CORP #630	00475717	4054545648	CLEANING SUPPLIES	General Fund	53.68
08/07/2020	CINTAS CORP #630	00475718	4054558617	CLEANING SUPPLIES	General Fund	54.48
08/07/2020	CINTAS CORP #630	00475719	4054558773	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475720	4054558665	CLEANING SUPPLIES	General Fund	52.46
08/07/2020	CINTAS CORP #630	00475721	4055372488	CLEANING SUPPLIES	General Fund	53.68
08/07/2020	CINTAS CORP #630	00475722	4055984848	CLEANING SUPPLIES	General Fund	53.68
08/07/2020	CINTAS CORP #630	00475723	4055984062	CLEANING SUPPLIES	General Fund	37.13
08/07/2020	CINTAS CORP #630	00475724	4055984007	UNIFORMS	General Fund	68.56
08/07/2020	CINTAS CORP #630	00475725	4055984836	CLEANING SUPPLIES	General Fund	53.68
08/07/2020	CINTAS CORP #630	00475726	1901201180	APPAREL	General Fund	145.50
08/07/2020	CINTAS CORP #630	00475879	4055372461	CLEANING SUPPLIES	General Fund	52.46
08/07/2020	CINTAS CORP #630	00475880	4055372547	CLEANING SUPPLIES	General Fund	54.48
08/07/2020	CINTAS CORP #630	00475882	4056219362	CLEANING SUPPLIES	General Fund	53.68
08/07/2020	CINTAS CORP #630	00475883	4056219355	CLEANING SUPPLIES	General Fund	107.33
08/07/2020	CINTAS CORP #630	00475884	4056649061	CLEANING SUPPLIES	General Fund	53.68
08/07/2020	CINTAS CORP #630	00475886	4056646294	UNIFORMS	General Fund	401.75
08/07/2020	CINTAS CORP #630	00475886	4056646294	UNIFORMS	General Fund	4.51
08/07/2020	CINTAS CORP #630	00475924	4056140498	2020 JUL WATER UNIFORM SERVICE	Water Utility	314.76
08/07/2020	CINTAS CORP #630	00475924	4056140498	2020 JUL WATER UNIFORM SERVICE	Sewer Utility	314.77
08/07/2020	CINTAS CORP #630	00475932	4052779627	CLEANING SUPPLIES	General Fund	37.14
08/07/2020	CINTAS CORP #630	00476247	4056760854	2020 JUL WATER UNIFORM SERVICE	Water Utility	314.77
08/07/2020	CINTAS CORP #630	00476247	4056760854	2020 JUL WATER UNIFORM SERVICE	Sewer Utility	314.76
				Total for Payment No.:		3,760.90

Payment No: 016686

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CINTAS FIRE PROTECTION #F44	00475124	0F44731921	FIRE EXT SERV 881 COMSTOCK	Electric Utility	87.38

08/07/2020	CINTAS FIRE PROTECTION #F44	00475125	0F44731789	FIRE EXT SERV 815 COMSTOCK NT	General Fund	881.03
08/07/2020	CINTAS FIRE PROTECTION #F44	00475125	0F44731789	FIRE EXT SERV 815 COMSTOCK TAX	General Fund	474.44
08/07/2020	CINTAS FIRE PROTECTION #F44	00475514	0F44732164	FIRE PROTECTION SERVICES	General Fund	29.68
08/07/2020	CINTAS FIRE PROTECTION #F44	00475514	0F44732164	NON-TAXABLE	General Fund	42.45
08/07/2020	CINTAS FIRE PROTECTION #F44	00475516	0F44732163	FIRE PROTECTION SERVICES	General Fund	286.52
08/07/2020	CINTAS FIRE PROTECTION #F44	00475516	0F44732163	NON-TAXABLE	General Fund	587.93
08/07/2020	CINTAS FIRE PROTECTION #F44	00475517	0F44732165	FIRE PROTECTION SERVICES	General Fund	53.90
08/07/2020	CINTAS FIRE PROTECTION #F44	00475517	0F44732165	NON TAXABLE	General Fund	101.35
				Total for Payment No.:		2,544.68

Payment No: 016687

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	COUNTY OF SANTA CLARA	00475990	1800073585	FY 20-21 Cal-ID Program	General Fund	52,063.00
				Total for Payment No.:		52,063.00

Payment No: 016688

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	DIESEL DIRECT WEST	00475902	83651469	FIRE STATION #1- TANK #62	Fleet Operation Fund	784.90
08/07/2020	DIESEL DIRECT WEST	00475905	83651470	FIRE STATION #7 TANK #66	Fleet Operation Fund	798.00
08/07/2020	DIESEL DIRECT WEST	00475907	83651471	FIRE STATION #8 TANK #67	Fleet Operation Fund	1,451.41
08/07/2020	DIESEL DIRECT WEST	00475908	83651472	FIRE STATION #9 TANK #68	Fleet Operation Fund	940.39
				Total for Payment No.:		3,974.70

Payment No: 016689

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	DUNCAN WEINBERG GENZER &	00475877	31901 PJS	LEGAL SERVICES APR20	Electric Utility	87,245.33
08/07/2020	DUNCAN WEINBERG GENZER &	00475877	31901 PJS	LEGAL SVC BUCKS CREEK APR20	Electric Utility Construction	1,358.50
08/07/2020	DUNCAN WEINBERG GENZER &	00475877	31901 PJS	LEGAL SVC BUCK CRK CEQA APR20	Electric Utility Construction	1,027.00

				Total for Payment No.:		89,630.83

Payment No: 016690

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ESSENSE PARTNERS	00476084	2131	MARKETING/PR RETAINER JUN20	Elec OperatingGrant Trust Fund	2,297.55
08/07/2020	ESSENSE PARTNERS	00476084	2131	MARKETING/PR RETAINER JUN20	Elec OperatingGrant Trust Fund	4,406.65
08/07/2020	ESSENSE PARTNERS	00476084	2131	MARKETING/PR RETAINER JUN20	Elec OperatingGrant Trust Fund	1,851.50
08/07/2020	ESSENSE PARTNERS	00476084	2131	MARKETING/PR RETAINER JUN20	Electric Utility	1,365.00
08/07/2020	ESSENSE PARTNERS	00476084	2131	MARKETING/PR RETAINER JUN20	Elec OperatingGrant Trust Fund	1,823.75
08/07/2020	ESSENSE PARTNERS	00476084	2131	MARKETING/PR RETAINER JUN20	Elec OperatingGrant Trust Fund	1,823.75
08/07/2020	ESSENSE PARTNERS	00476084	2131	MARKETING/PR RETAINER JUN20	Elec OperatingGrant Trust Fund	410.00
				Total for Payment No.:		13,978.20

Payment No: 016691

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	FARWEST LINE SPECIALTIES LLC	00475899	308973	BUCKINGHAM VINYL TOOL APRON	Electric Utility	145.46
08/07/2020	FARWEST LINE SPECIALTIES LLC	00475899	308973	ESTEX AERIAL BUCKET HOOK	Electric Utility	23.60
08/07/2020	FARWEST LINE SPECIALTIES LLC	00475899	308973	LIT MULE LSB-3000B-10 FT. LIFT	Electric Utility	548.45
08/07/2020	FARWEST LINE SPECIALTIES LLC	00475899	308973	SHIPPING	Electric Utility	34.47
				Total for Payment No.:		751.98

Payment No: 016692

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GALE/CENGAGE LEARNING	00475534	70912432	1241 AD BK	General Fund	138.91
08/07/2020	GALE/CENGAGE LEARNING	00475536	70912845	1241 AD BK	General Fund	146.28
				Total for Payment No.:		285.19

Payment No: 016693

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GARDENLAND POWER EQUIPMENT	00475729	783679	MOUNT BRACKET	General Fund	214.13
				Total for Payment No.:		214.13

Payment No: 016694

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GATES & ASSOC	00476287	53263	CHANGE ORDER PER AMENDMENT NO.	Parks And Recreation	2,040.00
08/07/2020	GATES & ASSOC	00476287	53263	RETENTION	Parks And Recreation	-102.00
				Total for Payment No.:		1,938.00

Payment No: 016695

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GOLDER ASSOCIATES	00476363	580444	PROF SERVICES THRU 4/5/20	Solid Waste Utility-Constructi	34,121.08
08/07/2020	GOLDER ASSOCIATES	00476363	580444		Expendable Trust Funds	28,396.46
				Total for Payment No.:		62,517.54

Payment No: 016696

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GRAINGER	00475730	9583187175	TOILET SEAT COVER	General Fund	225.19
08/07/2020	GRAINGER	00475731	9587877813	SPLICE KIT	General Fund	236.61
				Total for Payment No.:		461.80

Payment No: 016697

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GRAINGER-SAN JOSE	00475636	9562552753	HALF MASK RESPIRATORS	Other City Dept Op Grant Fund	211.89
08/07/2020	GRAINGER-SAN JOSE	00475638	9596485301	P100 FILTERS - COVID19	Other City Dept Op Grant Fund	1,142.98

08/07/2020	GRAINGER-SAN JOSE	00475734	9591727590	FACE SHIELDS	Other City Dept Op Grant Fund	61.80
08/07/2020	GRAINGER-SAN JOSE	00475794	9597004903	MEDICAL SUPPLIES FOR STADIUM	General Fund	67.24
08/07/2020	GRAINGER-SAN JOSE	00475938	9581949428	PARTS-V#1951	Fleet Operation Fund	28.35
08/07/2020	GRAINGER-SAN JOSE	00475939	9581949436	PARTS- OFFICE USE	Fleet Operation Fund	46.32
08/07/2020	GRAINGER-SAN JOSE	00475940	9583641312	PARTS- V#3183	Fleet Operation Fund	207.11
				Total for Payment No.:		1,765.69

Payment No: 016698

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	HARRIS COMPUTER SYSTEMS	00475830	MN00129353	ANNUAL MAINTENANCE SUPPORT	General Fund	144,033.71
08/07/2020	HARRIS COMPUTER SYSTEMS	00475830	MN00129353	AMI SUPPORT	Electric Utility Construction	27,561.67
				Total for Payment No.:		171,595.38

Payment No: 016699

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	HI-TECH EMERGENCY VEHICLE SERVICE INC	00475942	167937	SUBLET V#2056 WO#12772	Fleet Operation Fund	243.26
08/07/2020	HI-TECH EMERGENCY VEHICLE SERVICE INC	00475942	167937	NON TAXABLE	Fleet Operation Fund	66.37
08/07/2020	HI-TECH EMERGENCY VEHICLE SERVICE INC	00475943	167974	PARTS- V#3218	Fleet Operation Fund	120.83
				Total for Payment No.:		430.46

Payment No: 016700

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	IMPERIAL SPRINKLER SUPPLY INC	00475887	4246239-00	SPRINKLER MAINTENANCE	General Fund	6.01
08/07/2020	IMPERIAL SPRINKLER SUPPLY INC	00475888	4242909-00	SPRINKLER MAINTENANCE	General Fund	41.91
08/07/2020	IMPERIAL SPRINKLER SUPPLY INC	00475889	4252367-00	SPRINKLER MAINTENANCE	General Fund	48.34
08/07/2020	IMPERIAL SPRINKLER SUPPLY INC	00475890	4252580-00	SPRINKLER MAINTENANCE	General Fund	16.49

08/07/2020	IMPERIAL SPRINKLER SUPPLY INC	00475891	4254635-00	SPRINKLER MAINTENANCE	General Fund	914.60
08/07/2020	IMPERIAL SPRINKLER SUPPLY INC	00475892	4255046-00	SPRINKLER MAINTENANCE	General Fund	76.77
				Total for Payment No.:		1,104.12

Payment No: 016701

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	INFOSEND INC	00475831	174395	BILL PRINT & MAIL	General Fund	13,927.79
08/07/2020	INFOSEND INC	00475831	174395	CMO - MISSION CITY SCENES-MAY	General Fund	56.17
08/07/2020	INFOSEND INC	00475831	174395	ELECTRIC - MAY INSERT	Electric Utility	53.63
08/07/2020	INFOSEND INC	00475831	174395	WATER - MAY INSERT	Sewer Utility	53.62
08/07/2020	INFOSEND INC	00475831	174395	CMO - MISSION CITY SCENES-JUNE	General Fund	1,430.84
08/07/2020	INFOSEND INC	00475831	174395	ELECTRIC - JUNE INSERT	Electric Utility	1,733.81
08/07/2020	INFOSEND INC	00475831	174395	TAXABLE	General Fund	6,304.14
				Total for Payment No.:		23,560.00

Payment No: 016702

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	INGRAM LIBRARY SERVICES INC	00475601	47120170	1241 AD BK	General Fund	1,234.03
08/07/2020	INGRAM LIBRARY SERVICES INC	00475601	47120170	1231 JUV BK	General Fund	1,055.33
08/07/2020	INGRAM LIBRARY SERVICES INC	00475601	47120170	1232 YA BK	General Fund	109.60
08/07/2020	INGRAM LIBRARY SERVICES INC	00475602	47120186	1235 AD/YA/JUV BK	General Fund	440.19
08/07/2020	INGRAM LIBRARY SERVICES INC	00475603	47120196	1233 YA BK	General Fund	13.33
08/07/2020	INGRAM LIBRARY SERVICES INC	00476168	47262103	1241 AD BK	General Fund	2,408.36
08/07/2020	INGRAM LIBRARY SERVICES INC	00476168	47262103	1231 JUV BK	General Fund	2,260.58
08/07/2020	INGRAM LIBRARY SERVICES INC	00476168	47262103	1232 YA BK	General Fund	276.59
08/07/2020	INGRAM LIBRARY SERVICES INC	00476168	47262103	1236 JUV BK	General Fund	46.70
08/07/2020	INGRAM LIBRARY SERVICES INC	00476169	47262117	1235 AD/YA/JUV BK	General Fund	774.95
08/07/2020	INGRAM LIBRARY SERVICES INC	00476170	47262131	1233 AD/JUV BK	General Fund	67.75
08/07/2020	INGRAM LIBRARY SERVICES INC	00476171	47252232	1234 JUV BK - FFL MID SCHOOL	Library Operating Grant Fund	542.01

08/07/2020	INGRAM LIBRARY SERVICES INC	00476172	47310157	1234 JUV BK - FFL MID SCHOOL	Library Operating Grant Fund	74.43
				Total for Payment No.:		9,303.85

Payment No: 016703

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LEHR AUTO ELECTRIC	00475946	SI47507	PARTS-V#3566 WO#127567	Water Utility	100.72
08/07/2020	LEHR AUTO ELECTRIC	00475946	SI47507	PARTS-V#3567 WO#127644	Water Utility	100.74
08/07/2020	LEHR AUTO ELECTRIC	00475947	SI47526	NW EQ. INSTL V#3531 WO#127005	Vehicle Replacement Fund	2,116.18
				Total for Payment No.:		2,317.64

Payment No: 016704

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	METROPOLITAN PLANNING GROUP	00476381	2001938	5515 STARS&STRIPES THRU 5/31	Expendable Trust Funds	5,192.50
08/07/2020	METROPOLITAN PLANNING GROUP	00476382	2001953	5515 STARS&STRIPES THRU 6/14	Expendable Trust Funds	1,782.50
08/07/2020	METROPOLITAN PLANNING GROUP	00476383	2001959	5515 STARS&STRIPES THRU 6/28	Expendable Trust Funds	1,860.00
08/07/2020	METROPOLITAN PLANNING GROUP	00476384	2002017	5515 STARS&STRIPES THRU 7/12	Expendable Trust Funds	1,356.25
				Total for Payment No.:		10,191.25

Payment No: 016705

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475526	0000442474	07/01-07/30 SVP GARBAGE	Electric Utility	1,002.60
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	General Fund	3,991.72
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	General Fund	5,761.89
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	General Fund	1,709.42
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	General Fund	1,253.48
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	General Fund	58.46

08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	General Fund	1,523.93
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	Electric Utility	3,071.48
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	Water Utility	2,102.08
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	Cemetery	509.30
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	Solid Waste Program	722.82
08/07/2020	MISSION TRAIL WASTE SYSTEMS	00475527	0000442467	07/01-07/30 GARBAGE BIN BILLNG	Electric Utility	753.15
				Total for Payment No.:		22,460.33

Payment No: 016706

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MT TIRE SERVICE	00475948	14042	LABOR-V#2617 WO#127066	Fleet Operation Fund	35.00
08/07/2020	MT TIRE SERVICE	00475949	14176	TIRES- STOCK	Fleet Operation Fund	981.00
08/07/2020	MT TIRE SERVICE	00475977	14149	LABOR- V#3223 WO#127695	Fleet Operation Fund	30.00
08/07/2020	MT TIRE SERVICE	00475978	14185	TIRE- V#SVAC7 WO#127806	Fleet Operation Fund	158.05
08/07/2020	MT TIRE SERVICE	00475978	14185	CA-TIRE TAX V#SVAC7 WO#127806	Fleet Operation Fund	1.75
08/07/2020	MT TIRE SERVICE	00475978	14185	LABOR-V#SVAC7 WO#127806	Fleet Operation Fund	25.00
08/07/2020	MT TIRE SERVICE	00475979	14197	TIRE-V#2973 WO#127825	Fleet Operation Fund	538.46
08/07/2020	MT TIRE SERVICE	00475979	14197	CA TIRE TAX- V#2973 WO#127825	Fleet Operation Fund	3.50
08/07/2020	MT TIRE SERVICE	00475979	14197	LABOR-V#2973 WO#127825	Fleet Operation Fund	50.00
				Total for Payment No.:		1,822.76

Payment No: 016707

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	NALCO CO	00476046	86880343	MO.SRV FEE COGEN JUL20	Electric Utility	300.44
08/07/2020	NALCO CO	00476047	86862321	MO.SRV FEE DVR JUN20	Electric Utility	901.29
08/07/2020	NALCO CO	00476048	69449770	PERMATREAT PC-191T 6/24/20	Electric Utility	1,462.35
08/07/2020	NALCO CO	00476048	69449770	PERMATREAT PC-191T 6/24/20	Electric Utility	1,462.34
08/07/2020	NALCO CO	00476048	69449770	TRANSPORTATION/ENERGY FEE	Electric Utility	40.81
08/07/2020	NALCO CO	00476049	69405948	SOLN 500ML POLYMER REAGENT 7/9	Electric Utility	710.68

08/07/2020	NALCO CO	00476049	69405948	TRANSPORTATION/ENERGY FEE	Electric Utility	0.29
08/07/2020	NALCO CO	00476049	69405948	FREIGHT	Electric Utility	57.23
08/07/2020	NALCO CO	00476050	69331838	71D5 PLUS.15 210LITER 6/15/20	Electric Utility	2,314.07
08/07/2020	NALCO CO	00476050	69331838	TRANSPORTATION/ENERGY FEE	Electric Utility	25.24
08/07/2020	NALCO CO	00476051	69328334	JR PORTAFEED IBC 6/15/20	Electric Utility	2,820.37
08/07/2020	NALCO CO	00476051	69328334	TRANSPORTATION/ENERGY FEE	Electric Utility	67.69
08/07/2020	NALCO CO	00476052	81001212	CREDIT 67770173 WRONG PRICE	Electric Utility	-9,959.17
				Total for Payment No.:		203.63

Payment No: 016708

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	OC JONES & SONS INC	00476217	70684R	AGREEMENT FOR REED ST-GRANT ST	Parks And Recreation	130,507.50
				Total for Payment No.:		130,507.50

Payment No: 016709

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PELICAN SIGN SERVICE INC	00475739	60503	CAPTAIN'S PROMOTION NAME BADGE	General Fund	261.60
				Total for Payment No.:		261.60

Payment No: 016710

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PG&E	00475547	0541963339-0 JUN2020	TS @ CALVERT/CALVERT	General Fund	42.01
08/07/2020	PG&E	00476249	8311198632-5 JUL2020	2020 JUL GUADALUPE CHART STATN	Sewer Utility	10.72
08/07/2020	PG&E	00476251	8978316890-2 JUL2020	2020 JUL 700 LOS ESTEROS SJTP	Sewer Utility	30.89
				Total for Payment No.:		83.62

Payment No: 016711

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PITNEY BOWES	00476219	3104100379	MAIL MACHINE LEASE	General Fund	1,359.76

				Total for Payment No.:		1,359.76

Payment No: 016712

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PRAXAIR DISTRIBUTION INC	00475799	96798962	NITROGEN K	Electric Utility	239.49
				Total for Payment No.:		239.49

Payment No: 016713

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ROBERT BLANCHETTE	00475577	29807JUL2020	TOOL REIMBURSEMENT FY 20-21	Fleet Operation Fund	345.17
				Total for Payment No.:		345.17

Payment No: 016714

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SUMMIT UNIFORMS	00476022	67637	uniform replacement E. Karl	General Fund	275.31
				Total for Payment No.:		275.31

Payment No: 016715

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	THERMAL MECHANICAL INC	00475621	79466	PREVENTATIVE MAINTENANCE	Information Technology Service	556.00
				Total for Payment No.:		556.00

Payment No: 016716

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	TRITON MUSEUM OF ART	00476296	2887JUL2020	GRANT AGREEMENT WITH THE TRITO	General Fund	24,630.00
				Total for Payment No.:		24,630.00

Payment No: 016717

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	UNITED REFRIGERATION INC	00475687	74251042-00	BELTS	General Fund	58.29
08/07/2020	UNITED REFRIGERATION INC	00475688	74379769-00	SUPPLIES	General Fund	181.67
08/07/2020	UNITED REFRIGERATION INC	00475689	74198960-00	CITY HALL	General Fund	73.96
08/07/2020	UNITED REFRIGERATION INC	00475690	74119736-00	FS 2 AC REPAIR	General Fund	20.63
				Total for Payment No.:		334.55

Payment No: 016718

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	UNIVERSAL SITE SERVICES	00475691	20025211	SCCC - POTS FY 2019-20	Convention Cnt Maintenance Dis	4,852.17
08/07/2020	UNIVERSAL SITE SERVICES	00475691	20025211	SCCC - POTS FY 2019-20	Convention Cnt Maintenance Dis	2,808.00
08/07/2020	UNIVERSAL SITE SERVICES	00475691	20025211	SCCC - POTS FY 2019-20	Convention Cnt Maintenance Dis	4,580.43
08/07/2020	UNIVERSAL SITE SERVICES	00476288	20024209	FY 2019-20 SWEEPING SERVICES W	Convention Cnt Maintenance Dis	1,127.00
				Total for Payment No.:		13,367.60

Payment No: 016719

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	US BANK NATIONAL ASSOCIATION	00475910	EO&M000270820	CVP O&M FUNDING #10 FY2021	Electric Utility	631,341.55
08/07/2020	US BANK NATIONAL ASSOCIATION	00475911	EO&M000270920	CVP O&M FUNDING #11 FY2021	Electric Utility	0.00
				Total for Payment No.:		631,341.55

Payment No: 016720

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	VALBRIDGE PROPERTY ADVISORS	00475983	20054	PROPERTY APPRAISAL	Electric Utility Construction	20,000.00
				Total for Payment No.:		20,000.00

Payment No: 016721

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	WAXIE SANITARY SUPPLY	00475738	79307994	DISINFECTING WIPES	Other City Dept Op Grant Fund	59.87
				Total for Payment No.:		59.87

Payment No: 016722

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	WESTERN STATES OIL CO	00475973	442219	PD MOTORCYCLES- TANK #91	Fleet Operation Fund	61.61
				Total for Payment No.:		61.61
				Overall Total		1,388,461.91

Sorted by Payment Number

Payment No: 644995

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BENISON TRAN	00475541	2861JUL2020	NOTARY FEE UGEE@450 HARVARD AV	Streets And Highways	15.00
				Total for Payment No.:		15.00

Payment No: 644996

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CHRISTOPHER TAYLOR	00476391	24592JUL2020	BOOT/CLOTHING REIMB FY2021	Electric Utility	280.00
				Total for Payment No.:		280.00

Payment No: 644997

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CONRAD REYNOLDS	00475579	2299JUN2020	TOOL REIMBURESEMENT FY 20-21	Fleet Operation Fund	171.00
08/07/2020	CONRAD REYNOLDS	00476053	2299JUL2020	FY20-21 TOOL REIMBURSEMNT	Fleet Operation Fund	500.00
				Total for Payment No.:		671.00

Payment No: 644998

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ENVIRONMENTAL SYSTEMS INC	00476070	8503-CO6	CHILLER CE18-19-03CONDUIT RTNG	General Fund	1,760.00
				Total for Payment No.:		1,760.00

Payment No: 644999

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

08/07/2020	GREGORY LATZ	00476380	32166JUL2020	REIMB-WALKING SHOES	General Fund	120.00
				Total for Payment No.:		120.00

Payment No: 645000

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	JOHN N HSUEH-MARTIN JR	00475578	1714JUL2020	TOOL REIMBURSEMENT FY 20-21	Fleet Operation Fund	261.01
				Total for Payment No.:		261.01

Payment No: 645001

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MARK GUERRERO	00475798	21470JUL2020A	FY 20/21 SAFTY BOOT/CLOTH REIM	Electric Utility	280.00
				Total for Payment No.:		280.00

Payment No: 645002

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	METROPOLITAN TRANSPORTATION	00475548	AR023021	PASS FY1-20 PROJ	Streets And Highways	19,845.00
				Total for Payment No.:		19,845.00

Payment No: 645003

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ROBERT J. PRITCHARD	00476325	2204JUN2020	BLACK BUTTE/STONY INSPECTIONS	Electric Utility	225.85
				Total for Payment No.:		225.85

Payment No: 645004

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SANTA CLARA VALLEY TRANSP AUTH	00476017	1800028340	LICENSE FEE-TRAVEL DEMAND MDL	Streets And Highways	16,700.00
				Total for Payment No.:		16,700.00

Payment No: 645005

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	THE MECHANICS BANK	00476218	1772JUL2020A	EXCROW AGREEMENT FOR THE REED	Parks And Recreation	6,342.50
				Total for Payment No.:		6,342.50

Payment No: 645006

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	JOSEPH GARTNER III	00475797	17413JUL2020	FY 20/21 SFTY CLOTH/BOOT REIMB	Electric Utility	274.18
				Total for Payment No.:		274.18

Payment No: 645007

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	3SI SECURITY SYSTEMS, INC.	00475498	INV818630	Tracking Service Renewal 20/21	General Fund	648.00
				Total for Payment No.:		648.00

Payment No: 645008

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ABODE SERVICES	00476292	TBRA-05-2020AB	ABODE- HOME TBRA FY19/20	H.U.D Capital Projects	52,694.00
08/07/2020	ABODE SERVICES	00476292	TBRA-05-2020AB	ABODE- CAHF TBRA FY19/20	City Affordable Housing	10,887.45
08/07/2020	ABODE SERVICES	00476297	TBRA-06-2020AB	ABODE- HOME TBRA FY19/20	H.U.D Capital Projects	52,694.00
08/07/2020	ABODE SERVICES	00476297	TBRA-06-2020AB	ABODE- CAHF TBRA FY19/20	City Affordable Housing	12,998.24
				Total for Payment No.:		129,273.69

Payment No: 645009

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ADVANCED DATA PROCESSING, INC.	00475795	7114	AMBULANCE TRANSPORT BILLING	General Fund	26.00
				Total for Payment No.:		26.00

Payment No: 645010

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ALHAMBRA & SIERRA SPRINGS	00475881	4973747 071020	WATER- OFFICE USE	Fleet Operation Fund	44.08
				Total for Payment No.:		44.08

Payment No: 645011

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ALLIANCE ENVIRONMENTAL GROUP	00475903	62MMA	ASBESTOS REMOVAL-COPELAND	H.U.D Capital Projects	2,617.00
08/07/2020	ALLIANCE ENVIRONMENTAL GROUP	00475903	62MMA	COPELAND - 10570	H.U.D Capital Projects	2,617.00
08/07/2020	ALLIANCE ENVIRONMENTAL GROUP	00475903	62MMA	COPELAND - 10570	H.U.D Capital Projects	-2,617.00
				Total for Payment No.:		2,617.00

Payment No: 645012

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ALLIED AUTO STORES	00475885	225974B	PARTS- STOCK	Fleet Operation Fund	384.91
				Total for Payment No.:		384.91

Payment No: 645013

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ALLIED UNIVERSAL SECURITY SVCS	00475678	10195486	SCCC - JUNE FY 2019-20	Convention Cnt Maintenance Dis	12,231.68
				Total for Payment No.:		12,231.68

Payment No: 645014

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ALTEC INDUSTRIES INC	00475895	11437066	PARTS- V#3204	Fleet Operation Fund	27.30
08/07/2020	ALTEC INDUSTRIES INC	00475896	11439131	PARTS- V#3344	Fleet Operation Fund	38.64
08/07/2020	ALTEC INDUSTRIES INC	00475974	50610843	LABOR-V#3506 WO#127647	Fleet Operation Fund	147.00

				Total for Payment No.:		212.94

Payment No: 645015

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ANIMAL DENTAL CLINIC, INC	00476023	444868	K9 Ozzy dental surgery	General Fund	2,892.72
				Total for Payment No.:		2,892.72

Payment No: 645016

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ARNE SIGNS	00475975	20-12182	PARTS- V#3084 WO#127878	Fleet Operation Fund	152.95
				Total for Payment No.:		152.95

Payment No: 645017

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	AT&T MOBILITY	00475623	287286334235X06192020	FIRE	General Fund	3,622.70
08/07/2020	AT&T MOBILITY	00475623	287286334235X06192020	FIRE	General Fund	97.80
08/07/2020	AT&T MOBILITY	00475623	287286334235X06192020	FIRE	General Fund	49.20
				Total for Payment No.:		3,769.70

Payment No: 645018

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BAKER SUPPLIES AND REPAIRS	00475897	65687	PARTS- V#3407	Fleet Operation Fund	81.38
08/07/2020	BAKER SUPPLIES AND REPAIRS	00475898	65690	PARTS- V#3407	Fleet Operation Fund	386.90
				Total for Payment No.:		468.28

Payment No: 645019

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BENCHMARK	00476242	E20-1162	ASBESTOS SAMPLS/RPRT-ROBERTSON	H.U.D Capital Projects	457.00

08/07/2020	BENCHMARK	00476243	E16-1798A	ASBESTOS SAMPLS/RPRT -DUROCHER	H.U.D Capital Projects	457.00
				Total for Payment No.:		914.00

Payment No: 645020

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	BLACK & VEATCH CORP	00476290	6706316	RECYCLED WTR RATE STUDY/SD SDC	Water Recycling Program	240.00
				Total for Payment No.:		240.00

Payment No: 645021

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CENTRAL WHOLESALE NURSERY	00475324	735496	THYME	General Fund	45.60
08/07/2020	CENTRAL WHOLESALE NURSERY	00475324	735496	TAXABLE PLANTS	General Fund	249.31
				Total for Payment No.:		294.91

Payment No: 645022

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CLEARBLU ENVIROMENTAL	00475976	23460	PARTS- SHOP	Fleet Operation Fund	327.26
08/07/2020	CLEARBLU ENVIROMENTAL	00475976	23460	LABOR- SHOP	Fleet Operation Fund	813.25
				Total for Payment No.:		1,140.51

Payment No: 645023

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	CRIME SCENE CLEANERS INC	00476392	73810	VEHICLE 3373	General Fund	70.00
				Total for Payment No.:		70.00

Payment No: 645024

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

08/07/2020	D&M TRAFFIC SERVICES	00475727	72074	BARRICADES	Other City Dept Op Grant Fund	1,305.28
08/07/2020	D&M TRAFFIC SERVICES	00475727	72074	STENCIL-BARRICADE	Other City Dept Op Grant Fund	50.00
				Total for Payment No.:		1,355.28

Payment No: 645025

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	DAIKIN APPLIED	00476289	3271426	YEAR 1 OF 2 PREVENTATIVE MAINT	Public Buildings	6,395.00
				Total for Payment No.:		6,395.00

Payment No: 645026

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	DASHER TECHNOLOGIES INC	00476014	354047	HPE UNVRSL G2 RACK MOUNTNG KIT	Electric Utility Construction	361.86
08/07/2020	DASHER TECHNOLOGIES INC	00476016	354230	BLADECENTER REPLACEMENT PHASE2	Electric Utility Construction	220,280.09
08/07/2020	DASHER TECHNOLOGIES INC	00476016	354230	BLADECENTER REPLACEMENT PHASE3	Electric Utility Construction	75,521.52
08/07/2020	DASHER TECHNOLOGIES INC	00476016	354230	BLADECENTER REPLACEMENT PHASE4	Electric Utility Construction	75,521.52
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE HARDWARE MAINTENANCE SUPPO	Electric Utility	35,456.11
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE SOFTWARE TECHNICAL UNLIMIT	Electric Utility	24,276.90
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE SOFTWARE UPDATES SVC SAID:	Electric Utility	8,580.36
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE HARDWARE MAINTENANCE SUPPO	Electric Utility	2,578.12
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE SOFTWARE TECHNICAL UNLIMIT	Electric Utility	268.70
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE SOFTWARE UPDATES SVC SAID:	Electric Utility	19.84
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE 10 PROACTIVE CREDITS SVC S	Electric Utility	1,970.88
08/07/2020	DASHER TECHNOLOGIES INC	00476377	353852	HPE 10 PROACTIVE CREDITS SVC S	Electric Utility	1,911.22
				Total for Payment No.:		446,747.12

Payment No: 645027

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	DAVEY TREE SURGERY	00476045	914790771	TREE TRIMMING PWR LINES JUN20	Electric Utility	227,027.82
08/07/2020	DAVEY TREE SURGERY	00476045	914790771	DUMP FEES JUN20	Electric Utility	7,575.00
				Total for Payment No.:		234,602.82

Payment No: 645028

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	DAY WIRELESS	00476234	6512JUL2020A	Bldg Plan Review BLD2020-57753	General Fund	3,232.70
08/07/2020	DAY WIRELESS	00476238	6512JUL2020	Bldg Plan Review BLD2020-57754	General Fund	3,222.71
				Total for Payment No.:		6,455.41

Payment No: 645029

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	FAST UNDERCAR SANTA CLARA	00475912	57870	PARTS- V#3085	Fleet Operation Fund	63.07
08/07/2020	FAST UNDERCAR SANTA CLARA	00475913	58395	PARTS- V#2633	Fleet Operation Fund	107.13
08/07/2020	FAST UNDERCAR SANTA CLARA	00475914	59365	PARTS- STOCK	Fleet Operation Fund	320.13
08/07/2020	FAST UNDERCAR SANTA CLARA	00475914	59365	CA BATTERY FEE- NONTAXABLE	Fleet Operation Fund	3.00
08/07/2020	FAST UNDERCAR SANTA CLARA	00475915	59582	PARTS- V#3328	Fleet Operation Fund	249.93
08/07/2020	FAST UNDERCAR SANTA CLARA	00475915	59582	CA BATTERY FEE- NONTAXABLE	Fleet Operation Fund	2.18
08/07/2020	FAST UNDERCAR SANTA CLARA	00475916	59590	PARTS- V#3209	Fleet Operation Fund	254.56
08/07/2020	FAST UNDERCAR SANTA CLARA	00475917	59714	PARTS- V#2958	Fleet Operation Fund	66.20
08/07/2020	FAST UNDERCAR SANTA CLARA	00475918	60160	PARTS- V#2920	Fleet Operation Fund	319.87
08/07/2020	FAST UNDERCAR SANTA CLARA	00475919	60287	PARTS- V#3374	Fleet Operation Fund	179.56
08/07/2020	FAST UNDERCAR SANTA CLARA	00475920	60953	CREDIT- ITEM RETURNED	Fleet Operation Fund	-319.87
08/07/2020	FAST UNDERCAR SANTA CLARA	00475921	61664	PARTS- V#D1321	Fleet Operation Fund	48.88
08/07/2020	FAST UNDERCAR SANTA CLARA	00475922	62243	PARTS- STOCK	Fleet Operation Fund	300.06
08/07/2020	FAST UNDERCAR SANTA CLARA	00475922	62243	CA BATTERY FEE- NONTAXABLE	Fleet Operation Fund	3.00
08/07/2020	FAST UNDERCAR SANTA CLARA	00475925	62782	CREDIT- ITEM RETURNED	Fleet Operation Fund	-55.70

				Total for Payment No.:		1,542.00

Payment No: 645030

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	FIRST ALARM SECURITY & PATROL,	00475800	10131293	TASMAN GARAGE	General Fund	690.00
08/07/2020	FIRST ALARM SECURITY & PATROL,	00476020	10220595	SECURITY SERVICES	General Fund	470.72
				Total for Payment No.:		1,160.72

Payment No: 645031

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	FOLSOM LAKE FORD	00476400	FL0143	UNMARKED 2020 UTILITY INTERCEP	Vehicle Replacement Fund	43,684.51
08/07/2020	FOLSOM LAKE FORD	00476400	FL0143	CA TIRE FEE	Vehicle Replacement Fund	8.75
08/07/2020	FOLSOM LAKE FORD	00476400	FL0143	SHIPPING	Vehicle Replacement Fund	125.00
08/07/2020	FOLSOM LAKE FORD	00476400	FL0143	DISCOUNT FOR EARLY PYMNT	Vehicle Replacement Fund	-545.00
				Total for Payment No.:		43,273.26

Payment No: 645032

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	FRONTIER FORD	00475934	647007	PARTS-V#3117	Fleet Operation Fund	365.76
08/07/2020	FRONTIER FORD	00475935	647003	PARTS-V#3262	Fleet Operation Fund	197.27
08/07/2020	FRONTIER FORD	00475936	647021	PARTS- V#3117	Fleet Operation Fund	10.16
08/07/2020	FRONTIER FORD	00475937	647100	PARTS-V#3207	Fleet Operation Fund	328.36
				Total for Payment No.:		901.55

Payment No: 645033

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GANG WU	00476207	35188JUL2020	Bldg Plan Review BLD2020-58728	General Fund	516.35

08/07/2020	GANG WU	00476207	35188JUL2020	Electric Permit	General Fund	164.00
08/07/2020	GANG WU	00476207	35188JUL2020	Plumbing Permit	General Fund	1,215.20
				Total for Payment No.:		1,895.55

Payment No: 645034

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GLR FASTENERS INC	00475893	P082808	NUTS AND BOLTS	General Fund	111.98
				Total for Payment No.:		111.98

Payment No: 645035

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	GRIFFIN AUTO PARTS	00475941	1-259371	PARTS-V#3036	Fleet Operation Fund	30.86
				Total for Payment No.:		30.86

Payment No: 645036

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	HOME DEPOT USA	00475519	561664277	FACILITIES SUPPLIES	General Fund	877.70
08/07/2020	HOME DEPOT USA	00475521	561664285	FACILITIES SUPPLIES	General Fund	675.36
08/07/2020	HOME DEPOT USA	00475588	561932252	FACILITIES SUPPLIES	General Fund	135.07
08/07/2020	HOME DEPOT USA	00475589	562162206	FACILITIES SUPPLIES	General Fund	61.84
08/07/2020	HOME DEPOT USA	00476210	563745660	FACILITIES SUPPLIES	General Fund	61.84
				Total for Payment No.:		1,811.81

Payment No: 645037

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	HOUSEKEYS INC	00476293	2020-92-7-05	HOUSEKEYS Fund 169 FY19/20	Housing Successor	57,000.00
08/07/2020	HOUSEKEYS INC	00476293	2020-92-7-05	HOUSEKEYS Fund 165 FY19/20	City Affordable Housing	8,000.00
				Total for Payment No.:		65,000.00

Payment No: 645038

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	HYDROSCIENCE ENGINEERS INC	00476291	316002012	AS-NEEDED SERVICES	Water Utility Construction	4,730.00
				Total for Payment No.:		4,730.00

Payment No: 645039

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	INDUSTRIAL SCIENTIFIC CORP	00476082	2340349	July 2020 Mandated Safety	Sewer Utility	650.86
				Total for Payment No.:		650.86

Payment No: 645040

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	ITRON INC	00475832	561595	ANNUAL MAINTENANCE SUPPORT	General Fund	11,274.53
				Total for Payment No.:		11,274.53

Payment No: 645041

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	JOHN GEARY	00476208	35171JUL2020	Plan review - Fire	General Fund	785.53
				Total for Payment No.:		785.53

Payment No: 645042

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	JONES LANG LASALLE AMERICAS INC	00476294	US002HOT002625	CHANGE ORDER: ADDITIONAL FUNDS	Convention Center Enterprise F	12,500.00
08/07/2020	JONES LANG LASALLE AMERICAS INC	00476295	US002HOT002783	CHANGE ORDER: ADDITIONAL FUNDS	Convention Center Enterprise F	12,500.00
				Total for Payment No.:		25,000.00

Payment No: 645043

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	KEVIN SULLIVAN HEATING & AIR	00476209	35170JUL2020	Plumbing Permit	General Fund	662.40
				Total for Payment No.:		662.40

Payment No: 645044

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LA OFERTA NEWSPAPER	00476395	13974	NOTICE MUNI ELECTION NOV2020	General Fund	2,292.00
				Total for Payment No.:		2,292.00

Payment No: 645045

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LANGUAGE LINE SOLUTIONS	00475617	4825004	TRANSLATION SERVICE	Information Technology Service	1,099.76
08/07/2020	LANGUAGE LINE SOLUTIONS	00475618	4844069	TRANSLATION SERVICE	Information Technology Service	679.29
				Total for Payment No.:		1,779.05

Payment No: 645046

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LAWSON PRODUCTS, INC.	00475944	9307691569	PARTS-STOCK	Fleet Operation Fund	145.97
				Total for Payment No.:		145.97

Payment No: 645047

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LC ACTION POLICE SUPPLY	00475945	412600	PARTS-V#3566 WO#127567	Water Utility	649.69
08/07/2020	LC ACTION POLICE SUPPLY	00475945	412600	PARTS-V#3567 WO#127644	Water Utility	649.70
				Total for Payment No.:		1,299.39

Payment No: 645048

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LCPTRACKER, INC.	00475796	IR-13403	PREVAIL WAGE COMPL/MGMT SOFTWR	Water Utility	3,833.33
08/07/2020	LCPTRACKER, INC.	00475796	IR-13403	PREVAIL WAGE COMPL/MGMT SOFTWR	Sewer Utility	3,833.33
08/07/2020	LCPTRACKER, INC.	00475796	IR-13403	PREVAIL WAGE COMPL/MGMT SOFTWR	Electric Utility	7,666.67
08/07/2020	LCPTRACKER, INC.	00475796	IR-13403	PREVAIL WAGE COMPL/MGMT SOFTWR	General Fund	7,666.67
				Total for Payment No.:		23,000.00

Payment No: 645049

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LN CURTIS & SONS	00475735	INV404315	SWIVEL BALL SHUT-OFF VALVE	General Fund	1,635.00
08/07/2020	LN CURTIS & SONS	00475736	INV405408	CHAINSAW SCABBARD	General Fund	245.25
08/07/2020	LN CURTIS & SONS	00475736	INV405408	ALUMINUM FUEL BOTTLE 20OZ	General Fund	129.23
08/07/2020	LN CURTIS & SONS	00475736	INV405408	STEEL MESH SAFETY GOGGLES	General Fund	228.90
08/07/2020	LN CURTIS & SONS	00475737	INV405117	STATION BOOTS - CHRISTIAN	Fire Department	180.31
08/07/2020	LN CURTIS & SONS	00475737	INV405117	STATION BOOTS - CHRISTIAN	Fire Department	180.31
08/07/2020	LN CURTIS & SONS	00475737	INV405117	STATION BOOTS - KASTNER	Fire Department	352.41
08/07/2020	LN CURTIS & SONS	00475741	INV573330	NOMEX PANTS	Fire Department	867.64
				Total for Payment No.:		3,819.05

Payment No: 645050

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	LOCAL GOVT PUBLICATIONS	00476399	20-565	LEGAL REFERENCES	General Fund	143.56
				Total for Payment No.:		143.56

Payment No: 645051

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MAD SCIENCE OF THE BAY AREA	00476388	20509	Contractor Payment for classes	General Fund	1,774.29
				Total for Payment No.:		1,774.29

Payment No: 645052

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MCKINLEY ELEVATOR CORP	00476246	A130998-IN	ELEVATOR INSPEC+BATERY JOHNSON	Housing Authority	425.00
08/07/2020	MCKINLEY ELEVATOR CORP	00476246	A130998-IN	TAXABLE	Housing Authority	63.23
				Total for Payment No.:		488.23

Payment No: 645053

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MOUNTAIN VIEW GARDEN CENTER	00475894	103695	FIBRE, FINE	General Fund	140.45
				Total for Payment No.:		140.45

Payment No: 645054

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MSDSONLINE INC	00476131	215948	MSDSONLINE HQ ACCOUNT-RENEWAL	Electric Utility	5,269.00
08/07/2020	MSDSONLINE INC	00476131	215948	HQ SITE ADMINISTRATOR-RENEWAL	Electric Utility	100.00
				Total for Payment No.:		5,369.00

Payment No: 645055

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MTH ENGINEERS INC	00475597	12303	ENG/CON DESIGN JUN2020	Electric Utility Construction	23,936.00
				Total for Payment No.:		23,936.00

Payment No: 645056

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	MYERS TIRE SUPPLY	00475950	51421580	PARTS- SHOP USE	Fleet Operation Fund	217.74
				Total for Payment No.:		217.74

Payment No: 645057

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	NAPA AUTO PARTS	00475951	5983-570736	PARTS- STOCK	Fleet Operation Fund	221.95
08/07/2020	NAPA AUTO PARTS	00475952	5983-570855	PARTS- V#2770	Fleet Operation Fund	85.01
08/07/2020	NAPA AUTO PARTS	00475953	5983-571898	PARTS-V#3262	Fleet Operation Fund	25.94
08/07/2020	NAPA AUTO PARTS	00475954	5983-572314	PARTS- STOCK	Fleet Operation Fund	69.72
08/07/2020	NAPA AUTO PARTS	00475955	5983-572477	PARTS- V#3036	Fleet Operation Fund	64.59
08/07/2020	NAPA AUTO PARTS	00475956	5983-572643	PARTS-V#3303	Fleet Operation Fund	10.49
08/07/2020	NAPA AUTO PARTS	00475957	5983-572935	PARTS- V#3472	Fleet Operation Fund	18.34
08/07/2020	NAPA AUTO PARTS	00475958	5983-573317	PARTS-V#2438	Fleet Operation Fund	48.24
08/07/2020	NAPA AUTO PARTS	00475959	5983-574123	PARTS-V#3301	Fleet Operation Fund	16.60
08/07/2020	NAPA AUTO PARTS	00475960	5983-574311	PARTS- STOCK	Fleet Operation Fund	204.66
08/07/2020	NAPA AUTO PARTS	00475961	5983-574641	PARTS- STOCK	Fleet Operation Fund	70.27
08/07/2020	NAPA AUTO PARTS	00475962	5983-574700	PARTS- V#3236	Fleet Operation Fund	6.50
08/07/2020	NAPA AUTO PARTS	00475963	5983-575166	PARTS-V#3084	Fleet Operation Fund	6.35
				Total for Payment No.:		848.66

Payment No: 645058

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	NEOGOV	00476390	INV-14591	INSIGHT SUBSCRIPT 7.20-6.21	General Fund	14,206.93
				Total for Payment No.:		14,206.93

Payment No: 645059

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	NEWTRON LLC	00476408	113991	LABOR FOR PUBLIC WORKS CONTRAC	Electric Utility Construction	77,247.50
08/07/2020	NEWTRON LLC	00476408	113991	RETENTION	Electric Utility Construction	-3,862.37
				Total for Payment No.:		73,385.13

Payment No: 645060

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	OIL CHANGER	00475321	FEB. 2020 CAR WASHES	CAR WASH- POLICE DEPT	Fleet Operation Fund	276.00
08/07/2020	OIL CHANGER	00475325	MAR. 2020 CAR WASHED	CAR WASH- POLICE DEPT	Fleet Operation Fund	231.00
08/07/2020	OIL CHANGER	00475327	APR. 2020 CAR WASH	CAR WASH- POLICE DEPT	Fleet Operation Fund	216.00
08/07/2020	OIL CHANGER	00475328	MAY 2020 CAR WASH	CAR WASH- POLICE DEPT	Fleet Operation Fund	360.00
				Total for Payment No.:		1,083.00

Payment No: 645061

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PACIFIC COAST PETROLEUM INC.	00475964	964265	PARTS-STOCK	Fleet Operation Fund	650.73
				Total for Payment No.:		650.73

Payment No: 645062

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PAPE MATERIAL HANDLING, INC	00475965	12102881	PARTS- V#3256	Fleet Operation Fund	720.64
				Total for Payment No.:		720.64

Payment No: 645063

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PARS	00475598	45902	PARS - PARS FEE MAY 2020	General Fund	2,785.51
				Total for Payment No.:		2,785.51

Payment No: 645064

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PASO ROBLES TANK INC	00476401	5010	CONSTRUCTION CONTRACT FOR SERR	Water Utility Construction	17,395.00
08/07/2020	PASO ROBLES TANK INC	00476401	5010	RETENTION	Water Utility Construction	-4,760.00
				Total for Payment No.:		12,635.00

Payment No: 645065

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PETERSON TRACTOR CO	00475966	PC001701877	PARTS- V#3252	Fleet Operation Fund	113.58
08/07/2020	PETERSON TRACTOR CO	00475967	PC001702407	PARTS-V#2834	Fleet Operation Fund	33.14
				Total for Payment No.:		146.72

Payment No: 645066

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PLANET ORANGE	00476250	133760	1-TIME RODENT SERVICE - RINCON	H.U.D Capital Projects	420.00
08/07/2020	PLANET ORANGE	00476250	133760	RINCON - 10164	H.U.D Capital Projects	420.00
08/07/2020	PLANET ORANGE	00476250	133760	RINCON - 10164	H.U.D Capital Projects	-420.00
				Total for Payment No.:		420.00

Payment No: 645067

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	PRINTS CHARLES REPROGRAPHICS	00475543	97352	CE 18-19-04 PLANS & SPECS	Parks And Recreation	854.22
08/07/2020	PRINTS CHARLES REPROGRAPHICS	00475543	97352	LABOR - NON TAXABLE	Parks And Recreation	22.00
				Total for Payment No.:		876.22

Payment No: 645068

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	QUALITY TECHNOLOGY SERVICES HOLDING, LLC	00476042	033706	CONDUIT LEASE AUG20	Electric Utility	1,090.00
08/07/2020	QUALITY TECHNOLOGY SERVICES HOLDING, LLC	00476042	033706	RACK: 2POST AUG20	Electric Utility	100.00
				Total for Payment No.:		1,190.00

Payment No: 645069

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	RDO EQUIPMENT	00475968	P9694074	PARTS-V#3096	Fleet Operation Fund	93.84
				Total for Payment No.:		93.84

Payment No: 645070

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	RECOLOGY SOUTH BAY	00475528	JUNE-20	JUNE 2020 TOTAL TARIFF	Solid Waste Program	209,735.46
				Total for Payment No.:		209,735.46

Payment No: 645071

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SAFETY-KLEEN SYSTEMS INC	00475969	83660900	SUBLET-HAZ/MAT	Fleet Operation Fund	290.00
				Total for Payment No.:		290.00

Payment No: 645072

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SAGE SOFTWARE INC	00476083	2002214498	SAGE FA SYS SPT RNWL 8/20-8/21	General Fund	2,169.00
				Total for Payment No.:		2,169.00

Payment No: 645073

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SAN MATEO CO HEALTH DEPT	00476043	97495	JUNE MANDATED COST LAB FEE	Water Utility	370.00
				Total for Payment No.:		370.00

Payment No: 645074

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SANTA CLARA CO DEPT OF CORRECTIONS	00476021	2021-0007	HNT plaques	General Fund	179.85
08/07/2020	SANTA CLARA CO DEPT OF CORRECTIONS	00476021	2021-0007	Reserve plaques	General Fund	179.85

				Total for Payment No.:		359.70

Payment No: 645075

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SANTA CLARA COUNTY	00476393	8123	CAFR SUCCESOR AGENCY	General Fund	1,080.40
				Total for Payment No.:		1,080.40

Payment No: 645076

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SANTA CLARA LIGHTING, INC.	00475686	18654	CENTRAL LIB LIGHT TUBES	General Fund	1,656.80
08/07/2020	SANTA CLARA LIGHTING, INC.	00475733	18742	FLUORESCENT BULBS ST. 5	General Fund	30.25
				Total for Payment No.:		1,687.05

Payment No: 645077

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SANTA CLARA SISTER CITIES ASSN	00476389	3470JUL2020	FY 19/20 Grant Agreement with	General Fund	5,659.00
				Total for Payment No.:		5,659.00

Payment No: 645078

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SANTA CLARA WEEKLY	00475545	1244591	NIB CE19-20-02 LICK MILL	Streets And Highways	2,784.00
				Total for Payment No.:		2,784.00

Payment No: 645079

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SCHAAF & WHEELER CONSULTING	00476375	32922	AGREEMENT FOR CONSULTING SERVI	Storm Drain	5,697.00
				Total for Payment No.:		5,697.00

Payment No: 645080

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SCOTT CHRISTENSEN	00475643	35172JUL2020	Electric Permit BLD2020-58038	General Fund	362.50
08/07/2020	SCOTT CHRISTENSEN	00475643	35172JUL2020	Plumbing Permit	General Fund	237.50
				Total for Payment No.:		600.00

Payment No: 645081

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SCP DISTRIBUTORS LLC	00475900	36002761	SANI-CHLOR	General Fund	78.81
08/07/2020	SCP DISTRIBUTORS LLC	00475900	36002761	DEPOSIT	General Fund	6.50
				Total for Payment No.:		85.31

Payment No: 645082

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	SYNERGETIC CONSULTING INC	00476167	20-0669	Application Support June 2020	General Fund	977.50
				Total for Payment No.:		977.50

Payment No: 645083

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	T-MOBILE USA INC	00475988	9404219944	GPS LOCATE 20-528117	General Fund	153.00
08/07/2020	T-MOBILE USA INC	00475989	9404752540	GPS LOCATE 20-614139	General Fund	918.00
				Total for Payment No.:		1,071.00

Payment No: 645084

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	TEREX USA LLC	00475970	5002824203	PARTS-V#2392	Fleet Operation Fund	84.58
				Total for Payment No.:		84.58

Payment No: 645085

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	TMT ENTERPRISES INC	00475732	04956	STAB GOLD FINES	General Fund	446.83
				Total for Payment No.:		446.83

Payment No: 645086

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	TRAFFICWARE	00476386	1800000153	TS2 CABINET, PN 70006-3011WP-W	Streets And Highways	30,525.72
08/07/2020	TRAFFICWARE	00476387	1800000154	TS2 CABINET, PN 70006-3011WP-W	Streets And Highways	30,525.72
				Total for Payment No.:		61,051.44

Payment No: 645087

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	TRB AND ASSOCIATES, INC.	00476378	3364	AMENDMENT NO. 3 ADD FUNDS PER	General Fund	4,070.00
08/07/2020	TRB AND ASSOCIATES, INC.	00476379	3366	AMENDMENT NO. 3 ADD FUNDS PER	General Fund	25,926.00
				Total for Payment No.:		29,996.00

Payment No: 645088

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	TURF & INDUSTRIAL EQUIPMENT CO	00475971	IV35278	PARTS- V#2380	Fleet Operation Fund	21.26
				Total for Payment No.:		21.26

Payment No: 645089

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	UNIFIRST CORPORATION	00476086	385 0396956	GARMENT RENTAL/CLEANING SVP IT	Electric Utility	39.73
08/07/2020	UNIFIRST CORPORATION	00476086	385 0396956	DELIVERY FEE SVP	Electric Utility	13.00
08/07/2020	UNIFIRST CORPORATION	00476087	385 0396957	GARMENT RENTAL/CLEANING T&D	Electric Utility	728.57
08/07/2020	UNIFIRST CORPORATION	00476087	385 0396957	NEW CLOTHES M. GUERRERO	Electric Utility	31.13

08/07/2020	UNIFIRST CORPORATION	00476088	385 0396959	GARMENT RENTAL/CLEANING 881ENG	Electric Utility	84.31
08/07/2020	UNIFIRST CORPORATION	00476089	385 0396963	GARMENT RENT/CLEAN SVCS SUB	Electric Utility	402.71
08/07/2020	UNIFIRST CORPORATION	00476090	385 0396964	GARMENT RENT/CLEAN SVCS AD1705	Electric Utility	65.33
08/07/2020	UNIFIRST CORPORATION	00476091	385 0396999	GARMENT RENT/CLEANING SVC CH	Electric Utility	85.93
				Total for Payment No.:		1,450.71

Payment No: 645090

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	UNITED PARCEL SERVICE	00476394	00009882E5290A	CITY CLERK	General Fund	41.92
				Total for Payment No.:		41.92

Payment No: 645091

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	UNITED SITE SERVICES INC	00476044	114-10639339	ADA SINK @SERRA SUB 7/7-8/3/20	Electric Utility Construction	10.91
08/07/2020	UNITED SITE SERVICES INC	00476044	114-10639339	WKLY SINK SRV@SERRA 7/7-8/320	Electric Utility Construction	138.00
08/07/2020	UNITED SITE SERVICES INC	00476044	114-10639339	ENVIRONMENTAL FEE	Electric Utility Construction	15.92
				Total for Payment No.:		164.83

Payment No: 645092

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	UNITED WAY BAY AREA	00476298	INV000000056847	UNITED WAY BAY AREA - 211 FY1	General Fund	2,500.00
08/07/2020	UNITED WAY BAY AREA	00476298	INV000000056847	UNITED WAY BAY AREA - 211 FY1	General Fund	2,500.00
				Total for Payment No.:		5,000.00

Payment No: 645093

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	VALLEY POWER SYSTEMS INC	00475972	K56256	LABOR- V#0028 WO#126346	Fleet Operation Fund	3,094.00

08/07/2020	VALLEY POWER SYSTEMS INC	00475972	K56256	MCHNE OPRTNS- V#0028 WO#126346	Fleet Operation Fund	13,529.04
08/07/2020	VALLEY POWER SYSTEMS INC	00475972	K56256	MILEAGE- V#0028 WO#126346	Fleet Operation Fund	85.00
				Total for Payment No.:		16,708.04

Payment No: 645094

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	VERIZON WIRELESS	00475624	9857315516	FIRE EMS	General Fund	178.23
				Total for Payment No.:		178.23

Payment No: 645095

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	VERIZON WIRELESS	00475625	9857315518	FIRE EMS	General Fund	18.02
				Total for Payment No.:		18.02

Payment No: 645096

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	VERIZON WIRELESS	00475626	9857315517	EMS STADIUM	General Fund	10.02
				Total for Payment No.:		10.02

Payment No: 645097

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	VERIZON WIRELESS	00475628	9855990749	WATER	Water Utility	246.64
08/07/2020	VERIZON WIRELESS	00475628	9855990749	WATER	Sewer Utility	246.64
08/07/2020	VERIZON WIRELESS	00475628	9855990749	WATER	Water Recycling Program	123.31
				Total for Payment No.:		616.59

Payment No: 645098

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid

08/07/2020	VERIZON WIRELESS	00475630	9858033615	WATER	Water Recycling Program	117.72
08/07/2020	VERIZON WIRELESS	00475630	9858033615	WATER	Water Utility	235.42
08/07/2020	VERIZON WIRELESS	00475630	9858033615	WATER	Sewer Utility	235.42
				Total for Payment No.:		588.56

Payment No: 645099

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	W-TRANS	00476385	24542	AGREEMENT FOR WARBURTON AVE/CI	General Fund	1,405.00
				Total for Payment No.:		1,405.00

Payment No: 645100

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	WAYNE JOHNSON	00475648	35173JUL2020	Plan Fire Review BLD2020-58431	General Fund	460.92
				Total for Payment No.:		460.92

Payment No: 645101

Payment Date	Vendor Name	Voucher No.	Invoice No.	Description	Fund Code	Amount Paid
08/07/2020	WEST COAST ARBORISTS INC	00475529	161991	EMERGENCY RESPONSE 6/16-6/30	General Fund	9,840.00
08/07/2020	WEST COAST ARBORISTS INC	00475529	161991	TREE SERVICES 6/16-6/30	General Fund	25,149.00
				Total for Payment No.:		34,989.00

Overall Total 1,615,787.07

City of Santa Clara Finance Department
Accounting Services

Supplement to Bills & Claims
Expenditures Paid by Wire Transfer
For the Period of July 25th, 2020 through August 7th, 2020

$	1,317,872.10	Valley Water (Santa Clara Valley Water District)--May 2020 Pump Tax
	35,707.44	Marin Clean Energy--CAISO Settlement Chg--SC G2 Ostrom Rd, Unit 1 Jun20
	5,000.00	CDIAC--San Jose/Santa Clara Regional Wastewater Facility Financing
	5,017.00	Pitney Bowes--Mail Room Postage
$	1,363,596.54	

REPORT TO COUNCIL

SUBJECT

Action on the Santa Clara Convention Center FY 2019/20 4th Quarter Financial Status Report [Council Pillars: Promote and Enhance Economic, Housing and Transportation Development, Enhance Community Engagement and Transparency, and Promote Sustainability and Environmental Protection]

BACKGROUND

On February 5, 2019, the City approved an agreement with Global Spectrum L.P. dba Spectra Venue Management (Spectra) to operate the Santa Clara Convention Center (SCCC). Spectra began management of SCCC on March 18, 2019.

Staff is transmitting Spectra's SCCC status report to Council for compliance with agreement terms.

DISCUSSION

Submitted for Council information is the Financial Status Report for the 4th quarter ended June 30, 2020, as submitted by Spectra. This report is unaudited and, therefore, subject to change.

As Spectra's 4th quarter report indicates, there has been little to no event activity at the Convention Center since Santa Clara County Public Health and State orders placed indefinite restrictions on indoor gatherings in mid-March. It is no surprise that the level of demand for the Convention Center has decreased significantly and activity is expected to remain dormant through the first two quarters of FY 2020/21.

There were 95 events scheduled in the last quarter for FY 2019/20 and Spectra and Levy have been diligently working with clients to move events into 2021. Of the 95 events, 11 rebooked and have confirmed a new date, 20 are in the progress of re-booking a future date, and 64 cancelled and are considering a future date. Spectra estimates that 75% of the 64 will reschedule. As it remains uncertain when indoor meetings or large gatherings will resume, Spectra and Levy have also been proactively working to move 65 events, scheduled July 2020 through December 2020, into 2021. Of the 65 events, 11 rebooked, 27 are in progress, and 27 cancelled.

With the drastic reduced activity at the Convention Center, both Spectra and Levy have implemented strategies to minimize expenditures in an effort to mitigate financial losses. Both Spectra and Levy implemented significant staffing reductions. Pre-COVID, Spectra was at 45 employees (42 full-time, 3 part-time) and Levy was at 103 employees (17 full-time, 86 part-time seasonal). During the 4th quarter, Spectra issued furloughs and layoffs to 36 employees and Levy laid off 11 full-time employees. Levy's part-time seasonal employees are only scheduled to work as needed for events and with the current situation, there are no work hours to issue. As of the date this report was prepared, Spectra and Levy issued additional layoff notices and have reduced to four full-time

employees each. Spectra retained the general manager, assistant general manager, finance director, and sales manager (a fifth employee is on leave time to be placed on furlough at the end of September). Levy retained the general manager, director of sales, head chef, and controller.

With the Convention Center being closed to events, staff have also been working on advancing the budgeted capital improvement projects such as resealing/repairing the pyramid skylights glass, updating interior paint and carpet, and updating interior digital signage; developing future sales strategies and activities to identify and secure new clients/events to Santa Clara; and developing a plan to further modern food concepts for future public space activation.

As discussed in the attached Quarterly Report, budget to actual financial results are as follows:

Table 1 - 4th Quarter Summary Financial Summary

	Projected in Budget	Actual	Difference
Gross Revenue	$3,930,568	$500,999	($3,429,567)
Total Expenses	$3,689,059	$1,574,729	$2,114,330
Net Income	$241,508	($1,073,730)	($1,315,238)

As detailed in Table 1, gross event revenue came in under the budgeted projection largely due to cancellations or rebooking of nearly all April - June events due to the COVID-19 pandemic. Results came in as follows: revenue performance in food and beverage (-$1,565,156 variance), lower rental (-$1,219,434 variance), audio-visual (AV) rental needs (-$499,480 variance) and IT (-$448,749 variance). Remaining categories generated higher than budgeted net revenue proceeds (+$303,251 variance).

Net expenses were under budget by $2,114,330. This was primarily due to the cost of goods sold coming in under budget by $1,503,926 and the implementation of cost cutting measures and staff furloughs/layoffs. The indirect expense came in under budget by $610,405.

Net income actuals came in under the budgeted projection for the quarter by $1,315,238 due to the revenue and expenditure performance described above, reflecting 645% below the original projected amount.

When comparing to last year, the net loss of $1,073,730 in the fourth quarter of the current Fiscal Year, was less than the net income of $831,803 in the fourth quarter of the prior Fiscal Year, reflecting 229% unfavorably when compared year to year.

It should be noted that without the ability to host events at the Convention Center due to COVID-19 and the Shelter in Place order, Spectra continues to evaluate the situation and is working on revising the Q1 FY 2020/21 forecast and the FY 2020/21 Operating Budget.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a

potential significant impact on the environment.

FISCAL IMPACT

The net operating loss incurred by the Convention Center for the 4th quarter of FY 2019/20 is $1,073,730. This amount does not include any fiscal impact related to TOT, TID, and/or sales tax activity.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov .

RECOMMENDATION

Note and file the Santa Clara Convention Center Financial Status Report for the fourth quarter ended June 30, 2020, as submitted by Spectra.

Reviewed by: Kenn Lee, Director of Finance
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. SCCC Activity Report for Fourth Quarter FY 2019/20



SANTA CLARA
CONVENTION CENTER

FY 19/20 QUARTERLY REPORT – 4th Quarter Ended June 30, 2020

SPECTRA

July 25, 2020

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Santa Clara Convention Center is strategically located in the heart of Silicon Valley, a prime location for conventions, trade shows and exhibitions. The Santa Clara Convention Center is minutes from hotels, restaurants, Levi's Stadium, California's Great America Theme Park, and many of the largest and most influential technology companies in the world, with easy access to freeways and Norman Y. Mineta San Jose International Airport and only 45 miles south of San Francisco. The Convention Center features 100,000 square feet of exhibit space, a 22,400 square foot ballroom, 31 breakout rooms and a 607seat theater and attracts over 350,000 visitors annually. The facility is an integral economic component of Santa Clara, generating economic benefits through attendee direct and indirect spending and sustaining over 500 local jobs.

For more information, visit www.santaclaraconventioncenter.com.

4th Quarter Highlights

This quarterly report covers fiscal operation of the Santa Clara Convention Center for the 4th quarter ended June 30, 2020. This report is unaudited and, therefore, subject to change.

20
Total Attendance

1
Total Event

$500,999
Total Revenue

Strategic Highlights

Santa Clara is in the process of restructuring all aspects of its approach to attracting and servicing conventions and meetings. Spectra has been actively involved with the City and its consultant, Jones Lang LaSalle (JLL) on the development of a new Destination Marketing Organization for Santa Clara. Job descriptions for a new CEO and a Sales Manager were completed in the 4th Quarter. Additionally, work continues with the City, JLL and the Tourism Improvement District (TID) on the development of a new booking strategy as the basis to establish lists of targeted business and events which will meet or exceed economic impact goals and objectives, as well as, build venue and destination brand awareness.

Financial Highlights

Gross Revenue through June of FY 19/20 was $13,958,984 representing 75.5% of the overall budget for revenue; expenses totaled $13,812,058 representing 85.3% of the overall budget for expenses.

Event Highlight

Due to the COVID-19 pandemic and the orders issued by the State of California and the Santa Clara County Department of Health, there was only one event at the Center this quarter. This event generated $3,727 and brought together approximately 20 attendees on one day.



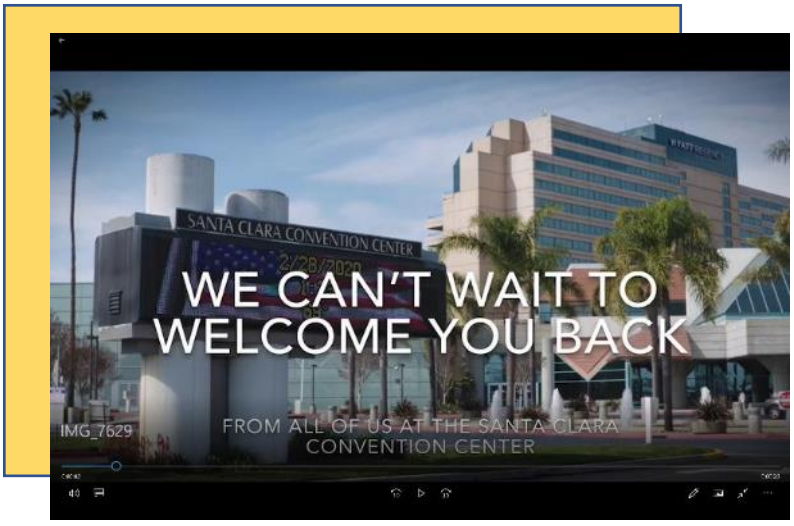


Operational Highlights

- Spectra, in conjunction with the City, County and State of California, finalized preparation and opened a Federal Medical Station (FMS) at the Convention Center
  - The FMS accepted its first patient on April 5, 2020
  - The FMS discharged its final patient on April 28, 2020
  - The FMS provided care for 20-individuals during its operation at the Convention Center.
- Spectra issued furloughs and layoffs for 36 employees in the quarter due to the COVID-19 pandemic.
- Spectra completed repairs on the main lobby escalator.
- Spectra submitted documents for the award of the Glass Pyramid capital project to the City for review.

Other Noteworthy Highlights

- Spectra finalized its FY 20/21 budget in accordance with the Spectra proforma.
- Spectra's General Manager joined the California Coalition of Convention Centers to prepare and present a "Safe Reopening" strategy for convention centers to the Governor of California.
- Spectra created its own reopening plan "Together Again!" for the Convention Center outlining future protocols and procedures for post COVID-19.
- Spectra created a "Welcome Back" Video that can be utilized to reach out to clients.



Financial Summary

Financial Results

Financial Summary – 4th Quarter ended June 30, 2020

	Projected in Budget	Actual	Difference
Gross Revenue	$3,930,568	$500,999	($3,429,569)
Total Expense	3,689,059	1,574,729	2,114,330
Net Income	$241,508	($1,073,730)	($1,315,238)

As detailed in Table 1, the net operating income financial results for the fourth quarter ended June 30, 2020 were under the projected amount by $1,315,238. This was due to the COVID-19 pandemic and the Shelter in Place order issued. Gross Revenues were under budget by $3,429,569 as all but one event canceled due to the COVID-19 situation.

Total expenses showed a savings of $2,114,330 for the quarter. This was primarily due cost cutting measures and furloughs/layoffs of staff.

Financial Summary – YTD ended June 30, 2020

	Projected in Budget	Actual	Difference
Gross Revenue	$18,483,350	$13,958,984	($4,524,366)
Total Expense	16,199,652	13,812,058	2,387,594
Net Income	$2,283,697	$146,926	($2,136,771)

As noted in Table 2, the current year finished with a Net Operating Income of $146,926 versus a budget of $2,283,697, under budget by $2,136,771 due to event cancellations because of COVID-19.

Utilizing preventative measures in cost cutting, the facility was able to minimize the variance of $4,524,366 in lost Gross Revenue with expense savings. Event Expenses finished $995,283 under budget; Indirect Expenses finished $1,392,312 under budget; totaling an overall savings versus budget of $2,387,594.

Income Statement

SANTA CLARA CONVENTION CENTER
QUARTERLY GROSS INCOME STATEMENT
For the Twelve Months Ending June 30, 2020

	QUARTER 4 TO DATE			YEAR TO DATE		
	BUDGET	ACTUAL	VARIANCE	BUDGET	ACTUAL	VARIANCE
Number of Events	**121**	**1**	**(120)**	**479**	**288**	**(191)**
Number of Event Days	**185**	**1**	**(184)**	**904**	**578**	**(326)**
Attendance	**99,780**	**20**	**(99,760)**	**458,770**	**229,000**	**(229,770)**
Event Revenue						
Rental	$1,219,594	$160	($1,219,434)	$5,539,868	$2,576,936	($2,962,931)
Services	14,432	-	(14,432)	220,387	358,459	138,072
IT/Telecom	449,099	350	(448,749)	1,817,741	838,047	(979,695)
Food & Beverage	1,614,460	49,304	(1,565,156)	7,764,960	7,050,270	(714,690)
Electrical	91,361	-	(91,361)	345,606	603,307	257,701
Audio Visual	498,068	(1,412)	(499,480)	2,620,587	1,475,647	(1,144,941)
Total Event Revenue	**3,887,015**	**48,402**	**(3,838,612)**	**18,309,150**	**12,902,666**	**(5,406,484)**
Event Expenses						
Services	-	4,236	(4,236)	(1,190)	32,609	(33,799)
IT/Telecom	332,334	350	331,984	1,395,081	686,179	708,902
Food & Beverage	1,176,941	330,107	846,834	5,349,806	5,260,791	89,015
Electrical	-	-	-	-	410,846	(410,846)
Audio Visual	328,725	(618)	329,343	1,729,588	1,087,577	642,011
Total Event Expenses	**1,838,000**	**334,074**	**1,503,926**	**8,473,284**	**7,478,002**	**995,283**
Net Event Income (Loss)	**2,049,015**	**(285,672)**	**(2,334,687)**	**9,835,865**	**5,424,664**	**(4,411,201)**
Other Revenue	**43,553**	**452,597**	**409,044**	**174,200**	**1,056,318**	**882,118**
Total Revenue	**2,092,568**	**166,925**	**(1,925,643)**	**10,010,065**	**6,480,982**	**(3,529,083)**
Indirect Expenses						
Executive	167,457	104,028	63,430	714,027	577,066	136,961
Finance	124,602	105,075	19,528	521,694	489,741	31,953
Event Services	148,091	68,064	80,026	632,968	418,860	214,108
Sales/Marketing	80,800	76,605	4,195	344,579	306,918	37,661
Operations	983,900	534,598	449,302	4,128,248	3,084,734	1,043,514
Overhead	346,209	352,284	(6,076)	1,384,852	1,420,809	(35,957)
Transition Costs	-	-	-	-	35,928	(35,928)
Total Indirect Expenses	**1,851,059**	**1,240,654**	**610,405**	**7,726,368**	**6,334,056**	**1,392,312**
Net Operating Income	**241,508**	**(1,073,730)**	**(1,315,238)**	**2,283,697**	**146,926**	**(2,136,771)**
Other Income/(Expense)	**-**	**(113,987)**	**(113,987)**	**-**	**(113,987)**	**(113,987)**
Net Income	**$241,508**	**($1,187,717)**	**($1,429,226)**	**$2,283,697**	**$32,939**	**($2,250,758)**

Event Statistics

Due to the COVID-19 pandemic, the Convention Center only hosted one event for the quarter. For the year, Spectra hosted 288 events over 578 days, total estimated attendance for FY 19/20 was 229,000.

Event Statistics – 4th Quarter ended June 30, 2020

Event Types	Percentage	# of Events	# of Days	Attendance
Banquets	0%	-	-	-
Meetings	100%	1	1	20
Consumer Shows	0%	-	-	-
Trade Shows	0%	-	-	-
Conventions	0%	-	-	-
Special Events	0%	-	-	-
Sporting Events	0%	-	-	-
Totals	**100%**	**1**	**1**	**20**

Event Statistics – YTD ended June 30, 2020

Event Types	Percentage	# of Events	# of Days	Attendance
Banquets	8%	23	26	18,315
Meetings	52%	151	246	69,119
Consumer Shows	4%	13	28	24,600
Trade Shows	6%	15	51	30,100
Conventions	6%	18	90	32,475
Special Events	16%	46	85	33,941
Sporting Events	8%	22	52	20,450
Totals	**100%**	**288**	**578**	**229,000**

Event Revenue

Event Net Revenue – 4th Quarter ended June 30, 2020

Event Types	Gross Revenue	Cost of Sales	Net Revenue
Banquets	$-	$-	$-
Meetings	50,911	161,266	(110,355)
Consumer Shows	(1,254)	255	(1,509)
Trade Shows	-	-	-
Conventions	(1,255)	172,553	(173,808)
Special Events	-	-	-
Sporting Events	-	-	-
Totals	**$48,402**	**$334,074**	**($285,672)**

Event Net Revenue for the quarter was a loss of $285,672 or $2,334,687 below budget. The missed projections in all categories were due to the cancelation or rebooking of events outside of FY 19/20 due to COVID-19. The $48,402 recognized in Gross Revenue was due to credit memos offered by the audio-visual provider for events that canceled due to the pandemic and recognizing F&B revenue. The $334,074 in overall cost of sales for the quarter was a combination of management salaries for Levy and the result of the finalized settlement with the interim F&B provider, Ovations, that operated at the Center from July 2019 to December 2019.

Event Net Revenue – YTD ended June 30, 2020

Event Types	Gross Revenue	Cost of Sales	Net Revenue
Banquets	$1,806,249	$1,156,917	$649,332
Meetings	2,776,180	1,761,945	1,014,235
Consumer Shows	317,608	97,738	219,870
Trade Shows	2,128,780	1,178,148	950,632
Conventions	5,045,733	3,028,594	2,017,139
Special Events	388,970	108,307	280,663
Sporting Events	439,145	146,352	292,793
Totals	**$12,902,666**	**$7,478,002**	**$5,424,664**

Year-to-date, Event Net Revenue is $5,424,664, $4,411,201 under budget. The major factor being rental revenues posting under budget by $2,962,931 due to cancelations or rescheduling of events to the next fiscal year due to COVID-19. AV and IT showed unfavorable net budget variances of $502,930 and $270,793, again due event cancellations due to the COVID-19 pandemic. Other Revenue exceeded the budget by $882,118 comprised of collected cancelation fees. Indirect expenses were $1,392,312 under budget for the year as a result of cost cutting measures and staff furloughs/layoffs.

Partners

Partner Revenue – 4th Quarter ended June 30, 2020

Partner	Gross Revenue	Cost of Sales	Net Revenue
Levy Restaurants/Ovations	$49,304	$330,107	($280,803)
Smart City (IT services)	350	350	-
PSAV-AV (AV services)	(1,412)	(619)	(793)
Electrical	-	-	-
UPS	-	-	-
Totals	**$48,241**	**$329,837**	**($281,596)**

Due to event cancellations, partner revenue showed a $281,596 loss for the quarter. Gross Revenue of $49,304 in Food & Beverage (F&B) was the result of funds transferred from Ovations, the interim provider of F&B at the Center from July 2019 to December 2019. Cost of Sales was $330,107 for Q4, the primary expense coming from Levy's management salaries and $170,448 in expense recognized from the Ovations settlement. AV and IT quarterly gross revenue was under budget by $499,480 and $448,749 respectively, again due to the COVID-19 pandemic. With the building closed for events, there was no electrical or UPS revenue or expenses recognized in the quarter.

Partner Revenue – YTD ended June 30, 2020

Partner	Gross Revenue	Cost of Sales	Net Revenue
Levy Restaurants/Ovations	$7,050,270	$5,260,791	$1,789,479
Smart City (IT services)	838,047	686,179	151,868
PSAV-AV (AV services)	1,475,647	1,087,577	388,070
Electrical	603,307	410,846	192,461
UPS	11,656	-	11,656
Totals	**$10,156,625**	**$7,445,392**	**$2,711,233**

Year-to-date Net Event Income for F&B was $625,675 under budget while IT and AV were also both under budget by $270,793 and $502,930 respectively.

Indirect Expenses

Total Indirect Expenses were $610,405 under budget for the quarter.

Departments	Expense Description	Indirect Cost
Executive	Senior personnel	$104,028
Marketing	Sales and marketing related	76,605
Finance	Finance and Human Resources	105,075
Events	Staffing to manage events	68,064
Operations	Engineering, building services, security, and all other related expenses to operate the building	534,598
Overhead	Non-departmental expenses	352,284
Transition Costs	Costs related to the transition to Spectra	-
Totals		**$1,240,654**

Key Performance Indicators (KPIs)

1) Gross Revenue

Goal
Meet or exceed $18,484,540 in Gross Revenue for FY 19/20.

Progress
Year-to-date totals in gross revenue is $13,958,984 representing 75.5% of the overall budget for gross revenue.

2) Net Income

Goal
Meet or exceed $1,933,698 in Net Income for FY 19/20. The Net Income amount was updated to reflect the budget adjustment that was approved for FY 19/20.

Progress
Year-to-date net income is $146,926, representing 6% of the overall budget for net income.

3) Room Nights Consumed

Goal(s)

1. In FY 19/20, Spectra will establish an agreeable tracking and reporting system and a baseline number of room nights consumed for the first full operation year. Historically, this number has been 33,000 (no clear supporting data was available from previous operator). Reports will be submitted monthly with tracking by room night generating group.
2. In FY 19/20, Spectra will provide the City with a list of current events in which room nights have historically been tracked. In addition, Spectra will work with clients to create a new reporting model for total room nights consumed based on all events that take place at the Center.
3. A reporting mechanism from the hotels to Spectra will be established (i.e. Survey Monkey survey sent to hotels post-event) by Spectra and tracked by SCCC until the DMO is established. A report will be developed to report on room nights consumed by event and participating hotels.

Progress
A total of 0 room nights were accounted for in the 4th Quarter due to COVID-19. For the year Spectra tracked 27,923 room nights.

4) Economic Impact

Goal
In FY 19/20, Spectra will establish a baseline and document experience/economic impact for all events at the Center using the Destinations International Event Impact calculator.

Progress
During this quarter, Spectra began running different event models to determine the estimated Economic Impact on the new event types outlined in the Santa Clara Booking Strategy.

5) Customer Service Survey Results Scores

Goal(s)
1. Spectra will create a standard survey instrument containing a series of product and service rating metrics, including the following summary question: "Based on services provided, please rate our overall performance. The post facility use survey data will be sent directly to the City for review.
2. Spectra will ask the decision-maker of each event to rate their overall satisfaction with the product and services provided.
3. Spectra will work on developing an attendee survey to be distributed to convention attendees, subject to approval of convention sponsor.
4. Data provided to the City includes:
    a. Total number of surveys distributed.
    b. Total number of responses.
    c. Response rate; and
    d. Overall customer survey score (Overall experience minimum rating of Satisfied or Very Satisfied is 85%)

Progress
There were no surveys issued in the 4th quarter.

6) Event Mix

Goal(s)
In FY 19/20, Spectra will report out on the various event types and will review the mix of business at the Convention Center. The data collected will be used to establish a baseline and to create future goals for the overall types and numbers of events with the expectation of an increase in the mix of business.

Currently, Spectra reports out on the type of event, such as One-Day, Multi-Day Conference, Citywide/Convention, Sporting Events or Trade Shows. In the 4th quarter there were no events held at the Convention Center due to COVID-19.

Progress

For the majority of the 4th Quarter, the Spectra sales team worked to relocate, or rebook client's events affected by the COVID-19 pandemic.

7) Community Benefit

Goal(s)

In FY 19/20, Spectra will demonstrate and report out on a conscious effort to support community and local groups by implementing the following:

1. Spectra will create and implement a non-for-profit rate/program to assist local groups to utilize the Convention Center.
2. Spectra will be involved in the community through volunteer and food donation programs that benefit the residents, businesses, and organizations of Santa Clara.
3. Spectra will hire local individuals (Santa Clara residents) and companies when possible under Spectra SOPs. Spectra will report on the number of offers, successful hires and business engagements.
4. Spectra will collaborate with Levy to propose future events that are designed to engage the Santa Clara Community.

Progress

In the 4th quarter, Spectra assisted the State of California and the City and County of Santa Clara in mobilizing a Federal Medical Station (FMS). The FMS operated for approximately three weeks and provided care for 20 patients with low acuity symptoms of COVID-19.



Forecast

Below is a spreadsheet highlighting the final Forecast for the Fiscal Year. The first column shows the actuals through the first three quarters of FY 19/20. Column two is the forecast of events that are expected to come to fruition during the final quarter of FY 19/20. Column three combines column one and column two, the actuals and the forecasted numbers to present the estimated financials for the fiscal year. The fourth column is the original budget submitted by Spectra for FY 19/20, showing the original pro forma less the approved amended budgeted expenses. The fifth column shows the variances from the originally submitted budget.

As of the end of Q4, Spectra generated an overall Net Income of $146,926, $2,136,770 under the submitted budget. This lack of revenue generation was due to the closure of the Center to social gatherings directly related to the COVID-19 pandemic. There was only one event held in Q4. March through May are historically three of the busiest and financially lucrative months at the Center. Spectra, through cost cutting measures and reduction in staff, was still able to generate a profit for the fiscal year reversing the Q3 forecast of ($562,916) by $709,842.

SANTA CLARA CONVENTION CENTER
ROLLING FORECAST
FY 2020

	ACTUAL Jul'19-Jun'20 FY 2020	Forecast FY 2020	TOTAL FYE 6/30/20	ORIG BUDGET FYE 6/30/20	VARIANCE
# OF EVENTS	288	0	288	479	(191)
DIRECT EVENT INCOME	3,247,116	0	3,247,116	6,529,711	(3,282,596)
ANCILLARY INCOME	2,177,548	0	2,177,548	3,306,154	(1,128,605)
TOTAL EVENT INCOME	5,424,664	-	5,424,664	9,835,865	(4,411,201)
OTHER INCOME	1,056,318	0	1,056,318	174,200	882,118
EXECUTIVE	577,066	0	577,066	714,027	136,961
MARKETING	306,918	0	306,918	344,579	37,661
FINANCE	489,741	0	489,741	521,694	31,953
EVENTS OPERATIONS	418,860	0	418,860	632,968	214,108
OPERATIONS	3,084,734	0	3,084,734	4,128,248	1,043,514
OVERHEAD	1,420,809	0	1,420,809	1,384,852	(35,957)
TRANSITION COSTS	35,928	0	35,928	0	(35,928)
INDIRECT EXPENSES	6,334,056	0	6,334,056	7,726,368	1,392,312
OPERATING NET INCOME (LOSS)	146,926	-	146,926	2,283,697	(2,136,771)
OTHER EXPENSES - AMENDED BUDGET	0	0	0	350,000	350,000
NET INCOME (LOSS)	146,926	-	146,926	1,933,697	(1,786,771)

FY 2019/20 Capital Improvement Projects (CIP) Budget

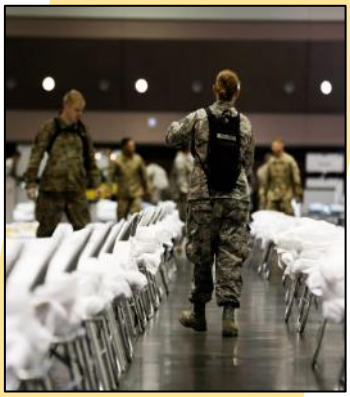
In Q4, Spectra reorganized its overall strategy for the completion of the capital projects. The priority projects are 009-Interior Paint and 013-Carpet Replacement as well as project 008-Message Boards, Marquees and Digital Signage. Spectra is continuing to work with the City to ensure compliance with procurement process and capital project rules and regulations. Spectra is focusing on issuing and completing as many capital projects in the next several months while the Convention Center is closed to large gatherings due to Santa Clara County orders. Additionally, the City and Spectra are working collaboratively with guidance from the City's procurement department to streamline the process. The following is the activity for capital projects in Q4:

- Spectra submitted a request for the emergency purchase and implementation of the interior painting and carpet replacement projects in Q4 to the contract administrator. The request was assessed by the City and determined the project did not meet the meet emergency procurement criteria.
- Spectra submitted a new strategy, timeline and action plan for the completion of the interior painting and carpet replacement project.
- Spectra presented its recommendation for the Glass Pyramid project vendor to the City and is working with City on finalizing process and documents.
- Bid for project 004-HVAC portable A/C was re-issued on BidSync in June.

Proj. #	Project Name	FY 19/20 Budget	YTD Exp.	Balance	%Exp.	Phase
001	Convention Center HVAC Study	**$11,250**	$0	*$11,250*	0.00%	Planning
002	Convention Center HVAC - Duct	**$57,375**	$0	*$57,375*	0.00%	Planning
003	Convention Center HVAC - BMS System Upgrade	**$23,006**	$20,450	*$2,556*	88.89%	Complete
004	Convention Center HVAC Portable A/C Units	**$50,625**	$0	*$50,625*	0.00%	Procurement
005	Convention Center Security System	**$168,750**	$0	*$168,750*	0.00%	Planning
006	Convention Center Lobby Roof (Glass Pyramids) Assessment and Repair	**$1,125,000**	$0	*$1,125,000*	0.00%	Procurement
007	Convention Center Building Envelope Repair - Terrace Building	**$111,875**	$0	*$111,875*	0.00%	Planning
008	Convention Center Message Boards, Marquees, Digital Signage	**$562,500**	$0	*$562,500*	0.00%	Planning
009	Convention Center Interior Paint	**$506,250**	$0	*$506,250*	0.00%	Planning
010	Convention Center Door Replacements	**$56,250**	$0	*$56,250*	0.00%	Planning
011	Convention Center Facility Lighting Project	**$22,500**	$0	*$22,500*	0.00%	Planning
012	Convention Center Riding Vacuum Purchase	**$39,375**	$31,238	*$8,137*	79.33%	Complete
013	Convention Center Carpet Replacement	**$1,225,000**	$0	*$1,225,000*	0.00%	Planning
014	Balance - Contingency	**$190,244**	$0	*$190,244*	0.00%	n/a
	GRAND TOTAL	**$4,150,000**	$51,688	*$4,098,312*	1.25%	

Community Involvement

April



In the 4th quarter, Spectra assisted the State of California and the County of Santa Clara in mobilizing a Federal Medical Station (FMS) at the Convention Center. The FMS operated for approximately three weeks.

May



In the 4th quarter, Spectra worked with the State of California and County of Santa Clara to demobilize the FMS and provide a complete and thorough cleaning of the entire facility.

April



May





Santa Clara Convention Center

5001 Great America Parkway
Santa Clara, CA 95054
Tel: (408) 748-7000
www.santaclaraconventioncenter.com
General Manager: Kelly Carr

20-322 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Adopt a Resolution in Support of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) [Council Pillar: Enhance Community Engagement and Transparency]

BACKGROUND

On December 3, 1979, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations General Assembly. On September 3, 1981, CEDAW was entered into force as an international treaty.

CEDAW is an international human rights treaty that provides a universal definition of discrimination against women, brings attention to a whole range of issues concerning women's human rights, and affirms principles of fundamental human rights and equality for women around the world. Through its 30 articles, CEDAW defines what constitutes discrimination against women, calls for data collection and analysis, assessment, and monitoring on key issues that create gender inequality, and sets up an agenda for national action to end such discrimination. Countries that have ratified the treaty are legally obliged to work towards the modification of social and cultural patterns to eliminate all forms of discrimination against women in all areas of life and ensuring women's full development and advancement so they can exercise their human rights and fundamental freedoms in the same way as men. They are also required to report to the CEDAW Committee by submitting a national report with the measures adopted to implement the provisions of the treaty. The United States is one of six countries in the world that have not ratified CEDAW.

In 2013, Women's Intercultural Network (WIN), a Non-Governmental Organization (NGO) with Consultative Status to the UN Economic and Social Council (ECOSOC), and the San Francisco Department of the Status of Women (DOSW), jointly launched a Cities for CEDAW Campaign. The Cities for CEDAW campaign is a grassroots effort that provides tools and leadership to empower local women's organizations and municipalities and effectively initiate CEDAW within their city, county, or state, and provides a comprehensive framework for advancing political and economic equality for women in the United States at the local level. The aim of the Cities for CEDAW campaign is to "Make the Global Local" and protect the rights of women and girls by passing legislation establishing the principles of CEDAW in cities and towns across the United States.

DISCUSSION

Jean Cohen, Member of the Santa Clara County Women's Equality 2020 Leadership Council, provided information on the Cities for CEDAW campaign to the City of Santa Clara in January 2020 (Attachment 1) and requested that a resolution in support of CEDAW principles be adopted by the City Council.

The City of Santa Clara has demonstrated its support against discrimination with its adoption of

Ordinance No. 1899 (Attachment 2) to protect and safeguard the right and opportunity of all persons to be free from all forms of arbitrary discrimination, including discrimination based on gender and gender identity, and on age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, and sexual orientation, in November 2012.

Consistent with Ordinance No. 1899, staff recommends that the City Council adopt a resolution (Attachment 3) in support of CEDAW.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is no impact to the City other than staff time.

COORDINATION

This report was coordinated with the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

Adopt a resolution in support of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).

Reviewed by: Genevieve Yip, Staff Analyst I
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Email from Jean Cohen Dated January 9, 2020
2. Ordinance No. 1899
3. Resolution in Support of CEDAW

From: Jean Cohen
To: Lisa Gillmor <LGillmor@SantaClaraCA.gov>
Subject: CEDAW Resolution
Date: Thursday, January 9, 2020 6:51:46 PM
Attachments: image001.png

Dear Mayor Gillmor:

Happy New Year.

I am following up to the brief discussion we had in your office about the Convention on the Elimination of all Forms of Discrimination Against Women (**CEDAW**) international treaty adopted in 1979 by the United Nations General Assembly.

In the last few years, many cities and other government agencies have adopted a local resolution in support. San Jose, Morgan Hill, and the County of Santa Clara have adopted it and Milpitas and Palo Alto have it on their priority lists.

I have attached the resolution language and provided some background links for your review. Is this something the City of Santa Clara can adopt? There's a committee of folks working to get all cities in SCC to pass the resolution. We would be honored to have your support and to introduce the item for council consideration.

Please let me know if you need more information or what the appropriate next steps are.

Sincerely,
Jean Cohen

Cities for CEDAW: http://citiesforcedaw.org/

Santa Clara County CEDAW *Ordinance*
https://www.sccgov.org/sites/owp/board/cedaw/Documents/bos-adpted-12-12-17-final.pdf

SF Ordinance: https://sfgov.org/dosw/cedaw-ordinance

CEDAW *Resolution* Morgan Hill
http://morganhillca.iqm2.com/Citizens/Detail_LegiFile.aspx?ID=2257&highlightTerms=CEDAW

Senate Concurrent Resolution No. 78
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SCR78

ORDINANCE NO. 1899

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING CHAPTER 9.55 ("PROHIBITION AGAINST DISCRIMINATION") TO TITLE 9 ("PUBLIC PEACE, MORALS AND WELFARE") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA"

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, it is the intent of the City Council, in enacting this Chapter, to protect and safeguard the right and opportunity of all persons to be free from all forms of arbitrary discrimination, including discrimination based on age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, gender, gender identity and sexual orientation; and,

WHEREAS, the City Council's purpose in enacting this Chapter is to promote the public health and welfare of all persons who live and work in Santa Clara.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That Chapter 9.55 (entitled "Prohibition Against Discrimination") is added to Title 9 (entitled "Public Peace, Morals and Welfare") of "The Code of the City of Santa Clara, California" ("SCCC") to read as follows:

"Chapter 9.55
PROHIBITION AGAINST DISCRIMINATION

Sections:

9.55.010 Purpose and intent.
9.55.020 Definitions.
9.55.030 Prohibited acts of discrimination – Employment.
9.55.040 Prohibited acts of discrimination – Housing and real estate transactions.
9.55.050 Prohibited acts of discrimination – Business establishments or public accommodations.
9.55.060 Prohibited acts of discrimination – Educational Institutions.
9.55.070 City services, facilities and transactions.
9.55.080 General exceptions.
9.55.090 Coercion or retaliation.
9.55.100 Enforcement.

9.55.010 Purpose and intent.

It is the intent of the City Council, in enacting this chapter, to protect and safeguard the right and opportunity of all persons to be free from all forms of arbitrary discrimination, including discrimination based on age, race, color, creed, religion, national origin, ancestry, disability, medical condition, marital status, sex, gender, sexual orientation and gender identity. The council's purpose in enacting this chapter is to promote the public health and welfare of all persons who live and work in Santa Clara.

9.55.020 Definitions.

(a) "Advertising" shall mean to make, print, publish, advertise or otherwise disseminate any notice, statement or advertisement with respect to any employment activity, any business activity, any service activity or any educational activity.

(b) "Age" shall mean eighteen years of age or older except as otherwise provided by law.

(c) "AIDS" means Acquired Immune Deficiency Syndrome (AIDS), AIDS related conditions (ARC), or any other medical condition which a person contracts as a result of having AIDS or ARC.

(d) "Business establishment" shall mean any entity, however organized, which furnishes goods, services or accommodations to the general public. An otherwise qualifying establishment which has membership requirements is considered to furnish services to the general public if its membership requirements consist only of payment of fees, or consist only of requirements under which a substantial portion of the residents of the City could qualify.

(e) "Disability" or "disabled" shall mean, with respect to an individual: a physical or mental impairment that substantially limits one or more of the major life activities of the individual; a record of such an impairment; or being regarded as having such an impairment. For purposes of

this chapter discrimination on the basis of disability means that no covered entity shall discriminate against a qualified individual with a disability because of that individual's disability. The term "qualified individual with a disability" shall mean an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. Except as herein provided discrimination on the basis of disability is to be interpreted in a manner consistent with the Americans With Disabilities Act, the regulations promulgated pursuant thereto and judicial decisions lending construction thereto.

(f) "Discriminate, discrimination or discriminatory" shall mean any act, policy or practice which, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, gender, gender identity, sexual orientation or medical condition. "Discrimination" includes the assertion of an otherwise valid reason for action as a subterfuge or pretext for prohibited discrimination.

(g) "Educational institution" shall mean any public or private educational institution including an academy, college, elementary or secondary school, extension course, kindergarten, preschool, nursery school, university, and any business, nursing, professional, secretarial, technical or vocational school.

(h) "Employee" shall mean any individual employed or seeking employment from an employer.

(i) "Employer" shall mean any person who, as of December 1, 2012, for compensation, regularly employs five (5) or more individuals, not including the employer's parents, spouse or children. For purposes of this chapter, an employer "regularly" employs five (5) individuals when the employer employs five (5) or more individuals for each working day in any twenty or more calendar

weeks in the current or previous calendar year. For purposes of this chapter an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

(j) "Gender" shall have the same meaning as "sex" as that term is used herein and shall be broadly interpreted to include persons who are known or assumed to be transgendered.

(k) "Gender Identity" shall mean a person's actual or perceived sex, and includes a person's identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with the person's sex at birth.

(l) "Labor organization" shall mean any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection on behalf of employees.

(m) "Medical Condition" shall include AIDS, AIDS related conditions and the conditions delineated in California Government Code Sec. 12926(i).

(n) "Person" shall mean any natural person, firm, corporation, partnership or other organization, association or group of persons however arranged.

(o) "Place of public accommodation" shall include: inns; taverns; hotels; motels; restaurants; wholesale outlets; retail outlets; banks; savings and loan associations; other financial institutions; credit information bureaus; insurance companies; dispensaries; clinics; hospitals; theaters; recreational parks and facilities; trail camps; garages; public conveyances; public halls; and all other establishments within the City which offer goods, services, accommodations and entertainment to the public. A place of public accommodation does not include any institution, club or other place of accommodation which by its nature is distinctly private.

(p) "Service" shall mean any activity which contributes to the welfare of others.

(q) "Sexual orientation" shall mean known or assumed heterosexuality, homosexuality, or bisexuality.

(r) "Transaction in real estate" shall include the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, of any interest in real property or improvements thereon.

9.55.030 Prohibited acts of discrimination – employment.

(a) With regard to employment, it shall be unlawful for any employers or labor organizations, to engage in any of the following acts, wholly or partially for a discriminatory reason:

(1) To fail to hire, refuse to hire or discharge any individual;

(2) To discriminate against any individual, with respect to compensation, terms, conditions, or privileges of employment, including promotion; however nothing in this subsection shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;

(3) To limit, segregate, or classify employees in any way which would deprive or tend to deprive any employee of employment opportunities, or which would otherwise tend to adversely affect his or her status as an employee;

(4) To fail or refuse to refer for employment any individual in such a manner: that would deprive an individual of employment opportunities; that would limit an individuals employment opportunities; or that would otherwise adversely affect an individual's status as a prospective employee or as an applicant for employment;

(5) To discriminate against an individual in admission to, or employment in, any program established to provide apprenticeship or other job training, including an on-the-job training program;

(6) To print or publish, or cause to be printed or published, any discriminatory notice or advertisement relating to employment. This subsection shall not be construed so as to expose the person who prints or publishes the notice or advertisement, such as a newspaper, to liability; or

(7) To discriminate in referring an individual for employment whether the referral is by an employment agency, labor organization or any other person.

9.55.040 Prohibited acts of discrimination – housing and real estate transactions.

(a) With regard to housing and real estate transactions it shall be unlawful to engage in any of the following acts wholly or partially for a discriminatory reason:

(1) To discriminate by impeding, delaying, discouraging or otherwise limiting or restricting any transaction in real property;

(2) To discriminate by imposing different terms on a real estate transaction;

(3) To represent falsely that an interest in real property is not available for transaction;

(4) To include in the terms or conditions of a real property transaction any discriminatory clause, condition or restriction;

(5) To discriminate in performing, or refusing to perform, any act necessary to determine an individual's financial ability to engage in a real estate transaction;

(6) For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants of any real property which he or she manages;

(7) To make, print or publish, or cause to be made, printed or published any discriminatory notice, statement, or advertisement with respect to a real estate transaction or proposed real estate transaction, or financing relating thereto. This subsection shall not be construed

so as to expose the person who prints or publishes the notice or advertisement, such as a newspaper, to liability. This subsection shall not be construed to prohibit advertising directed to physically disabled persons for the purpose of calling to their attention the existence or absence of housing accommodations or services for the physically disabled;

(8) To discriminate in any financial transaction involving real estate, on account of the location of the real estate be it residential or nonresidential ("redlining");

(9) Notwithstanding the provisions of subsections (1) through (8) of this section, it shall not be an unlawful discriminatory practice for an owner to limit occupancy of a building to tenants on the basis of age in accordance with federal or California law; and,

(10) Notwithstanding the provisions of subsections (1) through (8) of this section, it shall not be an unlawful discriminatory practice for an owner, lessee or renter to refuse to rent, lease or sublease a portion of a single-family dwelling unit to a person as a roomer or boarder where it is anticipated that the owner, lessee or renter will be occupying any portion of the single-family dwelling or to refuse to rent, lease or sublease where it is anticipated that the owner, renter or lessee will be sharing either a kitchen or a bathroom with the roomer or boarder.

9.55.050 Prohibited acts of discrimination – business establishments or public accommodations.

(a) It shall be unlawful for a business establishment or place of public accommodation to engage in any of the following acts wholly or partially for a discriminatory reason:

(1) To deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any business establishment or place of public accommodation; or

(2) To print, publish, circulate, post, or mail, directly or indirectly, a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services,

facilities, privileges, advantages, and accommodations of a business establishment or place of public accommodation will be unlawfully refused, withheld from or denied an individual, or which indicates that an individual's patronage of, or presence at, the business establishment or place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

9.55.060 Prohibited acts of discrimination – educational institutions.

(a) It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason:

(1) To deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified;

(2) Notwithstanding the provisions of subsection (a) of this section, it shall not be an unlawful discriminatory practice to limit attendance in classes or programs conducted by an educational institution based upon a reasonable educational objective, except where to do so would otherwise violate a duty imposed upon the institution by federal or state law to provide reasonable accommodation; and,

(3) Notwithstanding the provisions of subsection (a) of this section, it shall not be an unlawful discriminatory practice for an educational institution operated by a religious or denominational institution, or established for a bona fide religious purpose, to admit students or program attendees on the basis of that student's or attendee's religious or denominational affiliation or preference.

9.55.070 City services, facilities and transactions.

The City shall be bound by the provisions of this chapter to the same extent as private individuals.

9.55.080 General exceptions.

(a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this chapter shall not be deemed unlawful if it can be established that the practice is not intentionally devised to contravene the prohibitions of this chapter and can be justified by a reasonable business purpose. A reasonable business purpose shall not be based upon the comparative characteristics of one group in contrast to another, or a stereotyped characterization of one group in contrast to another.

(b) Unless otherwise prohibited by law, nothing contained in this chapter shall be construed to prohibit promotional activities such as senior citizen discounts and other similar practices designed primarily to encourage participation by protected groups.

(c) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this chapter.

(d) Prohibited discriminatory practices do not include acts based on a person's marital status which are reasonably taken in recognition of California community property laws pertaining to the acquisition, financing, holding or transferring of real estate.

(e) It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan. An affirmative action plan is any plan devised to effectuate remedial or corrective action taken in response to past discriminatory practices, or as otherwise required by state or federal law.

(f) Nothing contained in this chapter shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification, a bona fide physical requirement, or, as to a

religious or denominational institution, based upon a preference for applicants of the same religion or denomination. Nothing contained in this chapter shall be deemed to prohibit a religious or denominational institution from selecting or rejecting applicants and employees for nonsecular positions on the basis of the applicant's or employee's conformance with the institution's religious or denominational principles. If a party asserts that an otherwise unlawful practice is justified as a permissible bona fide occupational qualification, a permissible bona fide physical requirement or as a permissible bona fide religious or denominational preference, that party shall have the burden of proving:

(1) That the discrimination is in fact a necessary result of such a bona fide condition; and,

(2) That there exists no less discriminatory means of satisfying the bona fide requirement.

9.55.090 Coercion or retaliation.

(a) It shall be an unlawful discriminatory practice to coerce, threaten, retaliate against, or interfere with any person in the exercise of, or on account of having exercised, or on account of having aided or encouraged any other person in the exercise of, any right granted or protected under this chapter, or on account of having expressed opposition to any practice prohibited by this chapter.

(b) It shall be an unlawful discriminatory practice for any person to require, request, or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person, because that person has opposed any practice made unlawful by this chapter, or because that person has made a charge, or because that person has testified, assisted or participated in any manner in an investigation, proceeding or hearing authorized under this chapter.

(c) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, directly or indirectly, any person in order to prevent that person from complying with the provisions of this chapter.

(d) Nothing contained herein shall be construed to impair the constitutionally protected right to freedom of speech.

(e) In the course of investigating or proving a charge of discrimination under this chapter, no person shall be required to disclose their sexual orientation or gender.

9.55.100 Enforcement.

(a) Private Right of Action. Any person claiming to be aggrieved by an unlawful discriminatory practice shall have a civil cause of action in any court of competent jurisdiction. Any such civil action shall be brought within one year of the alleged discriminatory act. The court may grant such relief as it deems appropriate, including but not limited to, compensatory damages, attorney's fees, equitable relief, and injunctive relief including an injunction ordering the respondent to cease and desist from the unlawful discriminatory practice. Punitive damages are not recoverable in any civil action brought pursuant to this chapter.

(b) Enforcement by City. Any person who violates the provisions of this chapter or who aids or incites such a violation shall be deemed guilty of an infraction.

(c) State/Federal Remedies.

(1) The civil and criminal remedies and penalties provided for in this chapter are in addition to, not in lieu of, those provided for by state and federal law. This chapter shall therefore not be construed so as to limit a person's right to file complaint with the California Fair Employment and Housing Commission or the Federal Equal Employment Opportunity Commission or any other

state or federal agency vested with jurisdiction to receive, review and act upon complaints of discrimination of the type prohibited by this chapter.

(2) This chapter shall not be construed as limiting the right of any person to seek remedies in courts of competent jurisdiction pursuant to state or federal law which grant private rights of action to persons aggrieved by discriminatory acts of the type prohibited by this chapter.

(3) A person's election to seek remedies provided for in this chapter shall not operate to toll any statute of limitation set forth in state or federal law for pursuing remedies under state or federal law for acts of discrimination of the type prohibited by this chapter."

SECTION 2: Savings clause.

The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 3: Constitutionality, severability.

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 4: Effective date.

This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 30th day of October, 2012, by the following vote:

AYES:	COUNCILORS:	Gillmor, Kennedy, Kolstad, Mahan, McLeod and Moore and Mayor Matthews
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

FINALLY PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA this 13th day of November 2012, by the following vote:

AYES:	COUNCILORS:	Gillmor, Kennedy, Kolstad, Mahan, McLeod and Moore and Mayor Matthews
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA IN SUPPORT OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations General Assembly on December 3, 1979, and was entered into force as an international treaty on September 3, 1981; President Jimmy Carter signed CEDAW on behalf of the United States 1980, but the United States Senate has not yet ratified CEDAW;

WHEREAS, CEDAW is a comprehensive international women's rights treaty that provides a universal definition of discrimination against women, brings attention to a whole range of issues concerning women's human rights, and affirms principles of fundamental human rights and equality for women around the world; CEDAW calls for appropriate measures, such as legislation, to ensure women's rights and equality in all aspects of life, including in the political, social, economic, cultural, and civil fields;

WHEREAS, in 1998, San Francisco was the first city to pass a CEDAW ordinance and has seen reduced homicides of women, increased collaboration to address human trafficking and support survivors, improved working conditions for parents and caregivers; in 2013, Women's Intercultural Network (WIN), a Non-Governmental Organization (NGO) with Consultative Status to the UN Economic and Social Council (ECOSOC), and the San Francisco Department of the Status of Women (DOSW), jointly launched a Cities for CEDAW Campaign the formation of a grassroots network, Cities for CEDAW, has worked to apply the principles of CEDAW to address gender disparities at the local level, and successfully passed CEDAW ordinances in 2017 in both the County of Santa Clara and the City of San Jose;

WHEREAS, there are vast gender disparities at the local, state, and national level; women, particularly women of color, disabled women, Native women, immigrant women, trans women,

and women from marginalized communities suffer from unequal pay in Santa Clara County; intimate partner violence impacts tens of thousands of individuals in Santa Clara County with 178 domestic violence-related deaths between 2000 and 2018; sexual assault is also at epidemic levels in Santa Clara County particularly for college-age women;

WHEREAS, CEDAW provides basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life, including the right to vote and to stand for election, as well as education, health, and employment; and

WHEREAS, the City of Santa Clara has demonstrated its support against discrimination with its adoption of Ordinance No. 1899, adding Chapter 9.55 ("Prohibition Against Discrimination") to Title 9 ("Public Peace, Morals And Welfare") of "The Code of The City of Santa Clara, California," to protect and safeguard the right and opportunity of all persons to be free from all forms of arbitrary discrimination, including discrimination based on age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, gender, gender identity, and sexual orientation;

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the Santa Clara City Council adopts the principles outlined in CEDAW and supports the implementation of these principles, including the United Nations Convention precept that "[Discrimination is any] distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field."

3. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF _____, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

20-765 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on an Affordable Housing Agreement with KB Homes South Bay, Inc., for Project located at 2780 El Camino Real [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

BACKGROUND

KB Homes South Bay, Inc. (the "Developer") is proposing to construct 58 townhouse units on a 2.87-acre site located at 2780 El Camino Real. The project site is in the El Camino Real Focus Area adjacent to the Moonlite shopping center, a local and regional commercial and transportation corridor envisioned for high intensity commercial and residential development in the City's 2010-2030 General Plan. In May 2018, City Council approved General Plan Amendment #85 from Regional Mixed Use to Medium Density Residential; a Rezone from Community Commercial (CC) to Planned Development (PD); and a Vesting Tentative Subdivision Map to allow development of 58 townhouse units

As a condition of the land use entitlements, and per the City's inclusionary housing policy governing at the time of the entitlement, the Developer was required to enter into an Affordable Housing Agreement (AHA) with the City to designate 10 percent of the total units (i.e., 5.8 dwelling units) as Below Market Purchase (BMP) units to be sold to qualified first-time homebuyers at an affordable price based upon Area Median Income (AMI).

DISCUSSION

The proposed AHA with the Developer uses the City's standard form (Attachment 1) and will enable and guarantee the delivery of five (5) BMP units for sale within Santa Clara. The AHA fulfills an obligation placed upon the Developer through the City's land use entitlement process.

The BMP Policies and Procedures Guidelines adopted by the City Council ("BMP Program") provide that in the case of a fractional obligation of 5.8 units, a developer can either elect to provide six (6) BMP units or five (5) BMP unit and pay a BMP in-lieu fee for the fractional units. In this case the Developer is proposing to provide five BMP units and pay a fractional in-lieu fee. The BMP units will be sold to households whose income is at or below 110 percent of 2019 AMI with an average affordability level of 100% AMI. The resulting sales price for the BMP unit will be as follows:

- Unit# 8, 2 bedroom/ and 2.5 Bath, Plan 1 $448,000 (100%)
- Unit # 44, 2 bedroom/ and 2.5 Bath, Plan 1 $431,000 (90%)
- Unit# 14, 3 bedroom/ and 2.5 Bath, Plan 2 $496,000 (100%)
- Unit# 27, 3 bedroom/ and 2.5 Bath, Plan $542,000 (110%)
- Unit# 4, 3 bedroom/ and 3.5 Bath, Plan 3 $542,000 (110%)

To maintain long-term affordability, a 20-year restrictive resale covenant is enforced and recorded against the BMP unit. The resale restrictions within the covenant include:

1. If the BMP unit is sold within five years of acquisition, the owner must sell the BMP unit to another income-eligible homebuyer.

2. After five years of ownership, the owner can resell the BMP unit at market price; however, the City and the owner will share the appreciated value of the unit. The owner's share of any appreciation beyond the Initial Market Value will increase by five percent (5%) per year for twenty (20) years.

3. After the covenant expires in twenty (20) years, the equity sharing requirements is exhausted and the homeowner will realize full gain beyond the Initial Market Value.

Approval of the proposed AHA will implement the City's General Plan inclusionary housing policy consistent with the previous land use entitlements granted for the subject property.

ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration (MND) was prepared and a Notice of Availability was circulated for a 20-day period in accordance with California Environmental Quality Act (CEQA) requirements and approved by City Council in May 2018.

FISCAL IMPACT

In accordance with the policies of the BMP Program, the City will realize a recapture of the inclusionary subsidy value of the BMP units when resold in the future if the unit is sold within twenty (20) years of the date of the AHA. The principal amount of the BMP subsidy value is due in full at the end of the 20-year term.

In addition, a one-time Affordable Housing in-lieu fee for the 0.8 fractional unit will be deposited into the City Affordable Housing Fund at the time it is received from the Developer.

COORDINATION

This report has been coordinated with the Finance Department and the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

1. Approve and authorize the City Manager to execute the Affordable Housing Agreement with KB Homes South Bay, Inc. , to execute amendments thereto, and to take any other action necessary to implement the requirement for the provision of five (5) Below Market Purchase homes within a 58-unit townhome project at 2780 El Camino Real; and
2. Authorize the recordation thereof.

Reviewed by: Andrew Crabtree, Director, Community Development
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Affordable Housing Agreement with KB Homes South Bay, Inc.

RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE SECTION 6103

Recording Requested by:
Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:
KB Home South Bay, Inc
5000 Executive Parkway, Suite 125
San Ramon, CA 94583
And
Housing and Community Services
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
For Units,4, 8,14 ,27 and 44

AFFORDABLE HOUSING AGREEMENT
by and between the CITY OF SANTA CLARA, CALIFORNIA, AND KB HOME SOUTH BAY, INC.

PREAMBLE

This Affordable Housing Agreement (the "Agreement") is entered into on this _____ day of _____, 2020, (the "Effective Date") between KB Home South Bay, Inc., a California corporation, with its principal place of business located at 5000 Executive Parkway, Suite 125, San Ramon, CA 94583 (the "Developer"), and the City of Santa Clara, a chartered municipal organization, with its primary business address located at 1500 Warburton Avenue, Santa Clara, CA 95050 (the "City"). City and Developer may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The purpose of this Agreement is to increase, improve and preserve the supply of moderate income housing in the City by ensuring the Developer's construction and sale of housing affordably priced for Median Income Household(s), as defined in Section 1.b below.

B. Developer owns certain real property (the "Project Site") located within the jurisdiction of the City, which is described in Attachment A attached hereto and incorporated herein.

C. Developer intends to construct fifty-eight (58) condominium housing units ("Units") on the Project Site pursuant to the May 22, 2018 City Council land use approvals ("Project").

D. As a condition of Project entitlement by the City, and to satisfy the City's Inclusionary Housing Policy, the Developer is required to designate five (5) condominium housing units, as shown on Attachment B attached hereto and incorporated herein, to be

marketed and made available for sale exclusively to Moderate Income Household(s) as defined on an annual basis according to Household Income Limits set by the California Department of Housing and Community Development based on gross (pre-tax) annual household income ("Moderate Income Household"), for a below market price (the "BMP Units") that is required by the Project's conditions of approvals and the City's Below Market Purchase Program Policies and Procedures Guidelines ("the BMP Program Policies & Procedures") and to pay an in-lieu fee for the fractional .8 unit that is required by the Project's conditions of approvals and the City's Below Market Purchase Program Policies and Procedures Guidelines (the BMP Program Policies & Procedures").

E. The BMP Units will be sold at a price not to exceed an Affordable Sales Price as defined in Section 1.b below.

F. "Developer," for purposes of this Agreement, includes Developer and any assignee or successor in interest.

The Parties therefore agree as follows:

AGREEMENT PROVISIONS

1. DEVELOPER OBLIGATIONS.

As provided in this Agreement, in compliance with the Project conditions of approval and subject to the approval of the City, the Developer hereby designates five (5) of the units to be completed on the Project Site as BMP Units. Such BMP Units shall be the units designated as such on Attachment B attached. Developer agrees to complete the 5 BMP units (units 4, 8, 14, 27,44) in six phases of development, and shall meet the following criteria:

a. The BMP Units shall all have the standard amenities available to market rate units, including equivalent parking facilities, and shall have 2 and 3 bedrooms and 2.5 and 3.5 bathrooms The BMP units shall be offered for sale by the City or its designee.

b. The BMP Units shall be sold at the following "Affordable Sales Price":

i. Unit # 8, 2 bedroom/ and 2.5 Bath, Plan 1 $448,000 (100%)
ii. Unit # 44, 2 bedroom/ and 2.5 Bath, Plan 1 $431,000 (90%)
iii.Unit # 14, 3 bedroom/ and 2.5 Bath, Plan 2 $496,000 (100%)
iv.Unit # 27, 3 bedroom/ and 2.5 Bath, Plan 2 $542,000 (110%)
v. Unit # 4, 3 bedroom/ and 3.5 Bath, Plan 3 $542,000 (110%)

c. The BMP Units shall be sold exclusively to and for occupancy by persons and families whose affordable housing cost is not less than 25 percent of the gross income of the household, nor which exceeds the product of 35 percent times 100 percent of area median income adjusted for family size ("Median Income Household(s)").

d. The BMP Units shall be marketed and made available for sale by the City or its designee to Moderate Income Households at the applicable Affordable Sales Price. The City reserves the right to use consultants as necessary to qualify

eligible buyers and to market the BMP Units. Developer agrees not to engage in direct marketing of the BMP Units without prior approval of the City.

e. Developer agrees to abide by the BMP Program Policies & Procedures, as they may be amended from time to time. A true and correct copy of the current BMP Program Policies & Procedures is attached hereto and incorporated herein as Attachment C.

f. Unless otherwise released from this Agreement as provided herein, Developer and City agree that concurrently with the closing of the sale of each BMP Unit: (i) City and the BMP Unit buyer shall execute and record against the BMP Unit covenants substantially in the form of Exhibit A of the BMP Program Policies & Procedures; (ii) the BMP Unit buyer shall execute a promissory note substantially in the form of Exhibit B of the BMP Program Policies & Procedures; and (iii) the BMP Unit buyer shall execute and record against the BMP Unit a deed of trust substantially in the form of Exhibit C of the BMP Program Policies & Procedures.

g. The in-lieu fee payment shall be due to the City from the Developer when the five (5) designated BMP units have been sold. The in-lieu fee amount shall be equal to the difference between the unrestricted appraised market value ("Initial Market Value") and the Affordable Sales Price of one of the BMP units at completion, multiplied by eight-tenths (0.8). The Initial Market Value of the last BMP unit sold shall be the basis for calculating the in-lieu fee to be paid by Developer.

2. CITY OBLIGATIONS.

The City agrees to make a good faith effort to initiate marketing of the BMP Units itself or through its designee, within 30-days of the Developer providing notice to the City of completion of construction, and availability for sale, of the BMP Units. The City, at its sole discretion, may consent to a developer request to conduct earlier marketing efforts.

3. TERM OF AGREEMENT.

The term of this Agreement shall begin on the Effective Date, and shall terminate when all BMP Units have received certificates of occupancy and escrow has closed on all BMP Units, thereby transferring title to City-approved buyers. Upon such transfer of title to the BMP Units, Developer shall have no further obligations or liabilities with respect to the BMP Units, including without limitation, any responsibility for compliance by the buyer or its successors with the terms and conditions of the resale restrictions applicable to such BMP Units.

4. ASSIGNMENT OF AGREEMENT; SUCCESSORS IN INTEREST.

No interest in this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of the City, which approval shall not be unreasonably withheld.

5. RELATIONSHIP OF CITY AND DEVELOPER.

No written or verbal statement, including but not limited to this Agreement, shall be deemed or construed to create a partnership, tenancy, joint venture or co-ownership between the City and

the Developer. The City shall not be responsible or liable for the debts, losses, obligations or duties of the Developer with respect to the Project Site, the Project or otherwise.

6. NO THIRD PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties other than the record owner of title to the Project Site, and no other third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

7. FAIR EMPLOYMENT.

Developer shall not discriminate against any employee because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law in the performance of this Agreement.

8. HOLD HARMLESS/INDEMNIFICATION.

Developer agrees to defend, hold harmless and indemnify the City, its Council members, officers, employees, volunteers and agents from any claim, injury, liability, loss, cost, and/or expense or damage arising from or in any way connected with this Agreement and the performance thereof, including any such claim, etc., arising from the actual or alleged presence of hazardous substances on the Property, or any environmental claim relating in any way to the Property or Project.

9. COMPLIANCE WITH ENVIRONMENTAL LAWS.

Developer shall comply with all environmental laws and environmental permits applicable to the operations of the Developer on the Project Site and the ownership or use of the Project Site and the Project, shall immediately pay or cause to be paid all costs and expenses incurred by reason of such compliance, shall keep the Project Site and Project free and clear of any environmental claims or liens imposed pursuant to any environmental law, and shall obtain and renew all environmental permits required for ownership or use of the Project Site and the Project.

10. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any required time thereafter as set forth below, Developer shall purchase and maintain in full force and effect, at no cost to City, the following insurance policies:

- Commercial general liability policy (bodily injury and property damage);
- Comprehensive automobile liability policy; and
- Workers' compensation and employer's liability policy

Said policies shall be maintained with respect to employees and vehicles assigned to the performance of work under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as set forth in Attachment E, attached hereto and incorporated herein.

11. INTEGRATED DOCUMENT; AMENDMENT.

This Agreement and its terms and conditions, and the Project's conditions of approval, embody the entire agreement between the Parties. No other understanding, agreements, or conversations with any officer, agent, or employee of City shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. It is mutually understood and agreed that, except for the City's periodic updates of its BMP Program Policies & Procedures and related documents, no amendment to this Agreement shall be valid unless made in writing and signed by the Parties.

12. SEVERABILITY CLAUSE.

In case any one or more of the provisions contained herein 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.

13. WAIVER.

Developer agrees that waiver by a Party 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.

14. NOTICES.

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

City:
Housing & Community Services Division
City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) 248-3381

Developer:
KB Home South Bay, Inc.
5000 Executive Parkway, Suite 125
San Ramon, CA 94583

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

15. GOVERNING LAW; VENUE.

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. In the event that suit shall be brought by either Party, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, in the United States District Court, Northern District of California.

16. COMPLIANCE WITH LAWS.

Developer shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments, applicable to the Project Site and Project.

17. DISPUTE RESOLUTION.

a. Unless otherwise mutually agreed to by the Parties, any controversies between Developer and the City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party. Submission to mediation shall be a pre-condition to filing of any litigation.

b. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement. The costs of mediation shall be borne by the Parties equally.

18. CONFLICTS OF INTEREST.

Developer certifies that to the best of its knowledge no City employee or officer has any pecuniary interest in the business of Developer and that no person associated with Developer has any interest that would conflict in any manner or degree with the performance of this Agreement. Developer represents that it presently has no interest and shall not acquire any interest, direct or indirect, which could conflict in any manner or degree with the faithful performance of this Agreement. Developer is familiar with the provisions of California Government Code section 87100 and following, and certifies that it does not know of any facts that constitute a violation of said provisions. Developer will advise City if a conflict arises.

19. COVENANTS RUNNING WITH THE LAND.

The Parties agree that this Agreement shall run with the land, and, subject to the terms hereof, shall bind any and all successors in interest. The Parties agree that this Agreement shall be duly recorded with the County of Santa Clara against each legal parcel associated with the BMP Units within twenty (20) days after the date the Final Map creating the separate legal parcels associated with the BMP Units is recorded.

20. COMPLIANCE WITH ETHICAL STANDARDS.

As a condition precedent to entering into this Agreement, Developer shall review and agrees to comply with the City's "Ethical Standards Ethical Standards For Contractors Seeking To Enter Into An Agreement With The City Of Santa Clara, California" (viewable at http://santaclaraca.gov/home/showdocument?id=58299).

21. MARKET RATE UNITS.

Upon the request of the Developer, the City shall execute one or more agreements in recordable form certifying that a market rate unit within the Project is not subject to the requirements of this Agreement.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date first set forth above.

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

APPROVED AS TO FORM:

Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

KB HOME SOUTH BAY, INC.
A California corporation

Dated: 7/15/20

By: _____
(Signature of Person executing the Agreement on behalf of Developer)

Name: Raymond Panek

Title: Senior Vice President

Local Address: 5000 Executive Parkway, Suite 125
San Ramon, CA 94583

Email Address: rpanek@kbhome.com

Telephone: (925) 983-4520

Fax: (925) 983-4590

"DEVELOPER"

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

COUNTY OF CONTRA COSTA)

On JULY 15, 2020 before me, MICHELE C. ADAMS Notary Public,
(insert name and title of the officer),

personally appeared ROY PANEK who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

[Seal]

MICHELLE C. ADAMS
Notary Public - California
Contra Costa County
Commission # 2175237
My Comm. Expires Dec 11, 2020

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND
KB HOME SOUTH BAY, INC.

ATTACHMENT A

LEGAL DESCRIPTION OF PROJECT SITE

Real property in the City of Santa Clara, County of Santa Clara, State of California, described as follows: PARCEL 1, AS SHOWN ON A PARCEL MAP RECORDED JUNE 19, 1979 IN BOOK 444 OF MAPS, AT PAGES 1 AND 2.

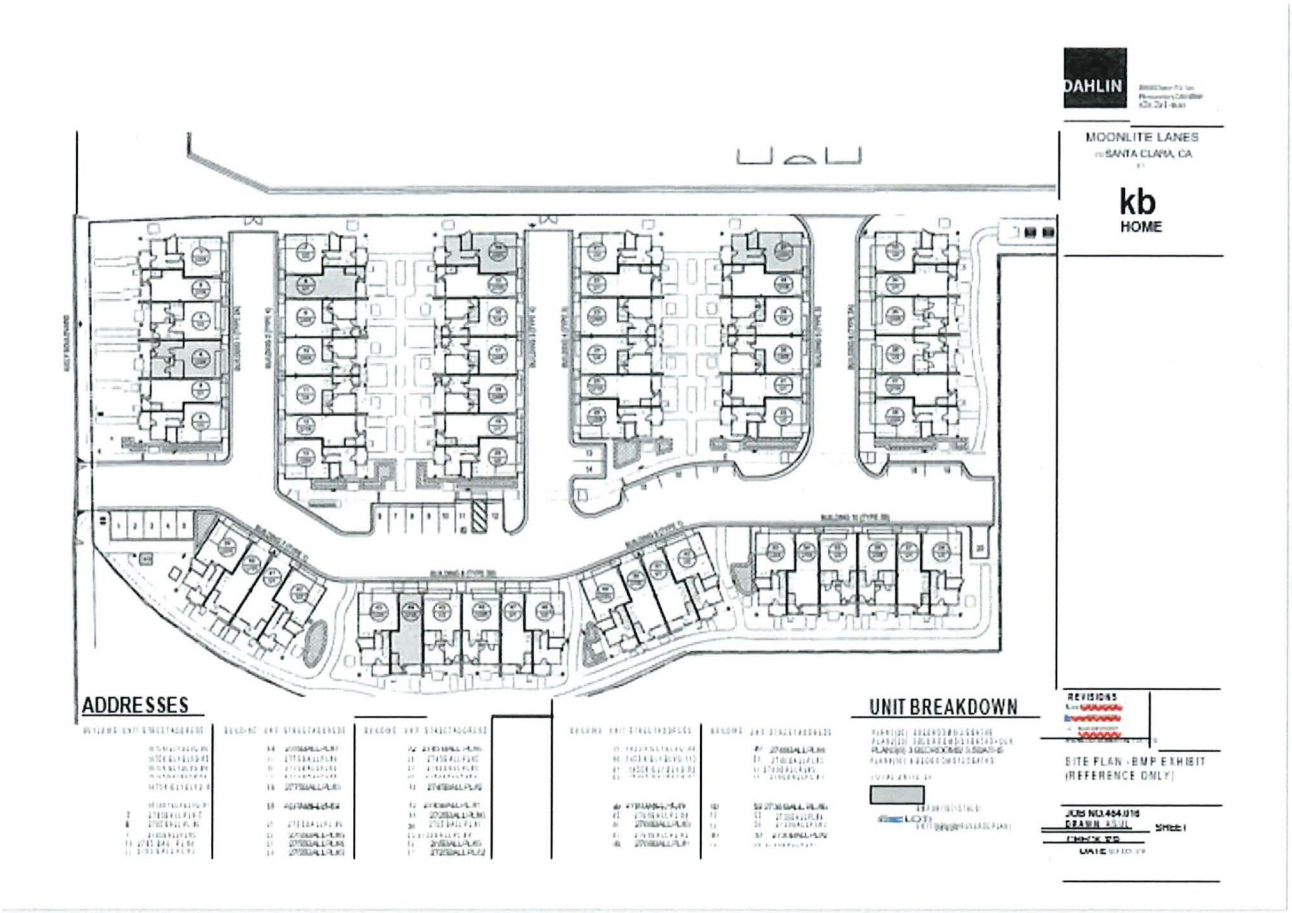
APN: 290-16-018

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND
KB HOME SOUTH BAY, INC.

ATTACHMENT B

BMP UNIT LOCATIONS

(Map Attached)


DAHLIN
MOONLITE LANES
SANTA CLARA, CA
kb
HOME
ADDRESSES
UNIT BREAKDOWN
REVISIONS
SITE PLAN - BMP EXHIBIT
(REFERENCE ONLY)

AFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND
KB HOME SOUTH BAY, INC.

ATTACHMENT C

BMP PROGRAM POLICIES AND PROCEDURES

(Attached hereto)

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND
KB HOME SOUTH BAY, INC.

ATTACHMENT D

[INTENTIONALLY LEFT BLANK]

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND
KB HOME SOUTH BAY, INC.

ATTACHMENT E

INSURANCE COVERAGE REQUIREMENTS

Without limiting the Developer's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Developer shall purchase and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate
   $2,000,000 Products/Completed Operations aggregate
   $1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Developer; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Developer to comply with the insurance - requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross liability exclusion, which precludes coverage for claims or suits by one insured against another;

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability;

   d. Coverage shall contain no Contractor's' limitation endorsement limiting the scope of coverage for liability arising from pollution, personal injury, Owners' and Contractor's' protective Liability; and

   e. Contractual Liability coverage shall expressly include all liability assumed under this Agreement.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars ($1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Developer and/or its sub-contractor's involved in such activities shall provide coverage with a limit of two million dollars ($2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars ($1,000,000) policy limit Bodily Injury by disease, one million dollars ($1,000,000) each accident/Bodily Injury and one million dollars ($1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Developer included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Developer or any sub-contractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. The City of Santa Clara, its officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Developer's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Developer shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from any other insurance, which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Developer's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

   b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Attachment E, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Developer and City agree as follows:

1. Developer agrees to ensure that sub-contractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Developer, provide the same minimum insurance coverage required of Developer, except as with respect to limits. Developer agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Developer agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such sub-contractors and others engaged in the project will be submitted to City for review.

2. Developer agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Developer for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Developer in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Developer, and each and every sub-contractor (of every tier) shall, at its sole cost and expense, purchase and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Developer shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection

G. EVIDENCE OF COMPLIANCE

Developer or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Developer shall submit to City copies of the actual insurance policies or renewals or replacements.

Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed .

EBIX Inc.
The City of Santa Clara
Housing & Community Services Division
P.O. Box 100085 – S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Developer shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

20-764 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on an Affordable Housing Agreement with DD Warburton Group LLC, for Project located at 1900 Warburton Avenue [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

BACKGROUND

DD Warburton Group LLC (the "Developer") is proposing to construct 12 townhouse units on a 0.55-acre site located at 1900 Warburton Avenue. The project site is on the south side of Warburton Avenue between Scott Boulevard and Civic Center Drive and is currently developed with one commercial building formerly utilized as a florist shop (Fujii's Florist). Residential land uses are located to the north of the site across Warburton Avenue and on adjacent properties to the south and east. Commercial land uses are located to the west of the site.

In July 2018, City Council approved a rezoning from General Office (OG) to Planned Development (PD) and a Tentative Condominium Map (PLN2017-12961 and PLN2018-13234) to allow development of 12 townhouse units.

As a condition of the land use entitlements, and per the City's inclusionary housing policy governing at the time of the entitlement, the Developer was required to enter into an Affordable Housing Agreement (AHA) with the City to designate 10 percent of the total units (i.e., 1.2 dwelling units) as Below Market Purchase (BMP) units to be sold to qualified first-time homebuyers at an affordable price based upon Area Median Income (AMI).

DISCUSSION

The proposed AHA with the Developer (Attachment 1) uses the City's standard form and will enable and guarantee the delivery of one (1) BMP units for sale within Santa Clara. The AHA fulfills an obligation placed upon the Developer through the City's land use entitlement process.

The BMP Policies and Procedures Guidelines adopted by the City Council ("BMP Program") provide that in the case of a fractional obligation of 1.2 units, a developer can either elect to provide two (2) BMP units or one (1) BMP unit and pay a BMP in-lieu fee for the fractional units. In this case the Developer is proposing to provide one BMP unit and pay a fractional in-lieu fee. The BMP unit will be sold to a household whose income is at or below 110 percent of 2019 AMI with an average affordability level of 100% AMI. The resulting sales price for the BMP unit will be as follows:

- 3 bedroom/ and 2.5 Bath, Plan 2 $445,000 (100% AMI)

To maintain long-term affordability, a 20-year restrictive resale covenant is enforced and recorded against the BMP unit. The resale restrictions within the covenant include:

1. If the BMP unit is sold within five years of acquisition, the owner must sell the BMP unit to another income-eligible homebuyer.

2. After five years of ownership, the owner can resell the BMP unit at market price; however, the City and the owner will share the appreciated value of the unit. The owner's share of any appreciation beyond the Initial Market Value will increase by five percent (5%) per year for twenty (20) years.

3. After the covenant expires in twenty (20) years, the equity sharing requirements is exhausted and the homeowner will realize full gain beyond the Initial Market Value.

Approval of the proposed AHA will implement the City's General Plan inclusionary housing policy consistent with the previous land use entitlements granted for the subject property.

ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration (MND) was prepared and a Notice of Availability was circulated for a 20-day period from March 19, 2018 through April 9, 2018 in accordance with California Environmental Quality Act (CEQA) requirements and approved by City Council in July 2018.

FISCAL IMPACT

In accordance with the policies of the BMP Program, the City will realize a recapture of the inclusionary subsidy value of one BMP unit when resold in the future if the unit is sold within twenty (20) years of the date of the AHA. The principal amount of the BMP subsidy value is due in full at the end of the 20-year term.

In addition, a one-time Affordable Housing in-lieu fee for the fractional unit equal to one fifth dwelling unit will be deposited into the City Affordable Housing Fund at the time it is received from the Developer.

COORDINATION

This report has been coordinated with the Finance Department and the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

1. Approve and authorize the City Manager to execute the Affordable Housing Agreement with DD Warburton Group LLC to execute amendments thereto, and to take any other action necessary to implement the requirement for the provision of one (1) Below Market Purchase homes within a 12-unit townhome project at 1900 Warburton Avenue; and
2. Authorize the recordation thereof.

Reviewed by: Andrew Crabtree, Director, Community Development
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Affordable Housing Agreement with DD Warburton Group LLC

powered by Legistar™

RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE SECTION 6103

Recording Requested by:
Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:
DD Warburton Group LLC
5150 El Camino Real Suite E20
Los Altos, CA 94022
And
Attn: Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Re: Unit 11

SPACE ABOVE RESERVED FOR RECORDERS USE

AFFORDABLE HOUSING AGREEMENT
by and between the CITY OF SANTA CLARA, CALIFORNIA, AND DUTCHINTS DEVELOPMENT, LLC

PREAMBLE

This Affordable Housing Agreement (the "Agreement") is entered into on this _____ day of _____, 2020, (the "Effective Date") between DD Warburton Group LLC, with its principal place of business located at 5150 El Camino Real Suite E20, Los Altos, CA 94022 (the "Developer"), and the City of Santa Clara, a chartered municipal organization, with its primary business address located at 1500 Warburton Avenue, Santa Clara, CA 95050 (the "City"). City and Developer may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The purpose of this Agreement is to increase, improve and preserve the supply of moderate income housing in the City by ensuring the Developer's construction and sale of housing affordably priced for Median Income Household(s), as defined in Section 1.c below.

B. Developer owns certain real property (the "Project Site") located within the jurisdiction of the City, which is described in Attachment A attached hereto and incorporated herein.

C. Developer intends to construct twelve (12) townhome housing units ("Units") on the Project Site pursuant to the July 2018 City Council land use approvals ("Project").

D. As a condition of Project entitlement by the City, and to satisfy the City's Inclusionary Housing Policy, the Developer is required to designate one (1)Townhome housing unit, as shown on Attachment B attached hereto and incorporated herein, to be marketed and made available for sale exclusively to Moderate Income Household(s), for a below market price (the "BMP Units") and to pay an in-lieu fee for the fractional unit that is required by the Project's conditions of approvals and the City's Below Market Purchase Program Policies and Procedures Guidelines (the BMP Program Policies & Procedures").

E. The BMP Units will be sold at a price not to exceed an Affordable Sales Price as defined in Section 1.b below.

F. "Developer," for purposes of this Agreement, includes Developer and any assignee or successor in interest.

The Parties therefore agree as follows:

AGREEMENT PROVISIONS

1. DEVELOPER OBLIGATIONS.

As provided in this Agreement, in compliance with the Project conditions of approval and subject to the approval of the City, the Developer hereby designates one (1) of the units to be completed on the Project Site as BMP Units. Such BMP Units shall be the units designated as such on Attachment B attached. Developer agrees to complete the 1 BMP unit (unit 11) in a single phase of development, and shall meet the following criteria:

a. The BMP Units shall all have the standard amenities available to market rate units, including equivalent parking facilities, and shall have 3 bedrooms and 2.5 bathrooms The BMP units shall be offered for sale by the City or its designee.

b. The BMP Unit shall be sold at the following "Affordable Sales Price":

i. **Unit #11, 3 bedroom/ and 2.5 Bath, Plan 2 $445,000 100% AMI**

c. The BMP Units shall be sold exclusively to and for occupancy by persons and families whose affordable housing costs are not less than 25 percent of the gross income of the household, nor which exceeds the product of 35 percent times 100 percent of area median income adjusted for family size ("Median Income Household(s)").

d. The BMP Units shall be marketed and made available for sale by the City or its designee to Moderate Income Households at the applicable Affordable Sales Price. The City reserves the right to use consultants as necessary to qualify eligible buyers and to market the BMP Units. Developer agrees not to engage in direct marketing of the BMP Units without prior written approval of the City.

e. Developer agrees to abide by the BMP Program Policies & Procedures, as they may be amended from time to time. A true and correct copy of the current BMP

Program Policies & Procedures is attached hereto and incorporated herein as Attachment C.

f. Unless otherwise released from this Agreement as provided herein, Developer and City agree that concurrently with the closing of the sale of each BMP Unit: (i) City and the BMP Unit buyer shall execute and record against the BMP Unit covenants substantially in the form of Exhibit A of the BMP Program Policies & Procedures; (ii) the BMP Unit buyer shall execute a promissory note substantially in the form of Exhibit B of the BMP Program Policies & Procedures; and (iii) the BMP Unit buyer shall execute and record against the BMP Unit a deed of trust substantially in the form of Exhibit C of the BMP Program Policies & Procedures.

2. CITY OBLIGATIONS.

The City agrees to make a good faith effort to initiate marketing of the BMP Units itself or through its designee, within 30-days of the Developer providing notice to the City of completion of construction, and availability for sale, of the BMP Units. The City, at its sole discretion, may consent to a Developer's request to conduct earlier marketing efforts.

3. TERM OF AGREEMENT.

The term of this Agreement shall begin on the Effective Date, and shall terminate when all BMP Units have received certificates of occupancy and escrow has closed on all BMP Units, thereby transferring title to City-approved buyers. Upon such transfer of title to the BMP Units, Developer shall have no further obligations or liabilities with respect to the BMP Units, including without limitation, any responsibility for compliance by the buyer or its successors with the terms and conditions of the resale restrictions applicable to such BMP Units.

4. ASSIGNMENT OF AGREEMENT; SUCCESSORS IN INTEREST.

No interest in this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of the City, which approval shall not be unreasonably withheld.

5. RELATIONSHIP OF CITY AND DEVELOPER.

No written or verbal statement, including but not limited to this Agreement, shall be deemed or construed to create a partnership, tenancy, joint venture or co-ownership between the City and the Developer. The City shall not be responsible or liable for the debts, losses, obligations or duties of the Developer with respect to the Project Site, the Project or otherwise.

6. NO THIRD PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties other than the record owner of title to the Project Site, and no other third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

7. FAIR EMPLOYMENT.

Developer shall not discriminate against any employee because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law in the performance of this Agreement.

8. HOLD HARMLESS/INDEMNIFICATION.

Developer agrees to defend, hold harmless and indemnify the City, its Council members, officers, employees, volunteers and agents from any claim, injury, liability, loss, cost, and/or expense or damage arising from or in any way connected with the this Agreement and the performance thereof, including any such claim, etc., arising from the actual or alleged presence of hazardous substances on the Property, or any environmental claim relating in any way to the Property or Project.

9. COMPLIANCE WITH ENVIRONMENTAL LAWS.

Developer shall comply with all environmental laws and environmental permits applicable to the operations of the Developer on the Project Site and the ownership or use of the Project Site and the Project, shall immediately pay or cause to be paid all costs and expenses incurred by reason of such compliance, shall keep the Project Site and Project free and clear of any environmental claims or liens imposed pursuant to any environmental law, and shall obtain and renew all environmental permits required for ownership or use of the Project Site and the Project.

10. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any required time thereafter as set forth below, Developer shall purchase and maintain in full force and effect, at no cost to City, the following insurance policies:

- Commercial general liability policy (bodily injury and property damage);
- Comprehensive automobile liability policy; and
- Workers' compensation and employer's liability policy

Said policies shall be maintained with respect to employees and vehicles assigned to the performance of work under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as set forth in Attachment E, attached hereto and incorporated herein.

11. INTEGRATED DOCUMENT; AMENDMENT.

This Agreement and its terms and conditions, and the Project's conditions of approval, embody the entire agreement between the Parties. No other understanding, agreements, or conversations with any officer, agent, or employee of City shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. It is mutually understood and agreed that, except for the City's periodic updates of its BMP Program Policies & Procedures and related documents, no amendment to this Agreement shall be valid unless made in writing and signed by the Parties.

12. **SEVERABILITY CLAUSE.**

In case any one or more of the provisions contained herein 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.

13. **WAIVER.**

Developer agrees that waiver by a Party 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.

14. **NOTICES.**

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

City: Housing & Community Services Division
City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) 248-3381

Developer: Dutchints Development LLC
5150 El Camino Real Suite E20
Los Altos, CA 94022

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

15. **GOVERNING LAW; VENUE.**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. In the event that suit shall be brought by either Party, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, in the United States District Court, Northern District of California.

16. **COMPLIANCE WITH LAWS.**

Developer shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments, applicable to the Project Site and Project.

17. **DISPUTE RESOLUTION.**

a. Unless otherwise mutually agreed to by the Parties, any controversies between Developer and the City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party

after the service of that request on the other Party. Submission to mediation shall be a pre-condition to filing of any litigation.

b. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement. The costs of mediation shall be borne by the Parties equally.

18. CONFLICTS OF INTEREST.

Developer certifies that to the best of its knowledge no City employee or officer has any pecuniary interest in the business of Developer and that no person associated with Developer has any interest that would conflict in any manner or degree with the performance of this Agreement. Developer represents that it presently has no interest and shall not acquire any interest, direct or indirect, which could conflict in any manner or degree with the faithful performance of this Agreement. Developer is familiar with the provisions of California Government Code section 87100 and following, and certifies that it does not know of any facts that constitute a violation of said provisions. Developer will advise City if a conflict arises.

19. COVENANTS RUNNING WITH THE LAND.

The Parties agree that this Agreement shall run with the land, and, subject to the terms hereof, shall bind any and all successors in interest. The Parties agree that this Agreement shall be duly recorded with the County of Santa Clara against each legal parcel associated with the BMP Units within twenty (20) days after the date the Final Map creating the separate legal parcels associated with the BMP Units is recorded.

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As a condition precedent to entering into this Agreement, Developer shall review and agrees to comply with the City's "Ethical Standards Ethical Standards For Contractors Seeking To Enter Into An Agreement With The City Of Santa Clara, California" (viewable at http://santaclaraca.gov/home/showdocument?id=58299).

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Upon the request of the Developer, the City shall execute one or more agreements in recordable form certifying that a market rate unit within the Project is not subject to the requirements of this Agreement.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date first set forth above.

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

APPROVED AS TO FORM:

Dated: _____

"CITY"

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050

Telephone: (408) 615-2210
Fax: (408) 241-6771

DUTCHINTS DEVELOPMENT , LLC
A California limited liability company

Dated: 5/3/20

By: _____
(Signature of Person executing the Agreement on behalf of Developer)

Name: Vahe Tashjian

Title: Managing Director

Local Address: 5150 El Camino Real Suite E20
Los Altos, CA 94022

Email Address: Vahe@dutchints.com

Telephone: 650.397.5297

Fax: _____

"DEVELOPER"

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)

) ss:

COUNTY OF Santa Clara)

On May 3, 2020 before me, Ruby G. Gulapa-Ngo

Notary Public (insert name and title of the officer),

personally appeared Vahe Tashjian, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

[Seal]

RUBY G. GULAPA-NGO
Notary Public - California
Santa Clara County
Commission # 2212754
My Comm. Expires Sep 3, 2021

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND

DD WARBURTON GROUP LLC

LEGAL DESCRIPTION OF PROJECT SITE

ATTACHMENT A

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of Santa Clara, State of California, and is described as follows:

Beginning at a point in the Southeasterly line of Wistar Street, as said line was established by Deed from J.J. Inman et ux to City of Santa Clara, a municipal corporation, dated January 20, 1958, recorded February 5, 1958 in Book 3999 Official Records, Page 259, Santa Clara County Records, at the Northernmost corner of that certain tract of land described in the Deed from Lois Elizabeth Inman to Saverio La Barbera, dated February 10, 1958, recorded February 11, 1958 in Book 4004 Official Records, Page 124, Santa Clara County Records; thence from said point of beginning South 0° 18' 50" East along the Easterly line of land so described in the Deed to said La Barbera and along the Easterly line of that certain 1.067 acre tract of land described in the Deed from Lois Elizabeth Inman to Saverio La Barbera, dated July 9, 1956, recorded July 10, 1956 in Book 3545 Official Records, Page 307, Santa Clara County Records for a distance of 150.00 feet; thence at right angles North 89° 41' 10" East 135.00 feet; thence North 0° 18' 50" West and parallel with the Easterly line of said 1.067 acre tract 216.55 feet to a point in the said Southeasterly line of Wistar Street; thence Southwesterly along said last mentioned line along an arc of a curve to the left from a tangent bearing South 60° 03' 41" West with a radius of 465.00 feet through a central angle of 2° 42' 35" for an arc distance of 21.99 feet; thence continuing along said Southeasterly line of Wistar Street along a reverse curve to the right with a radius of 535.00 feet through a central angle of 13° 48' 25" for an arc distance of 128.92 feet to the point of beginning.

APN: 224-20-027

AFFORDABLE HOUSING AGREEMENT

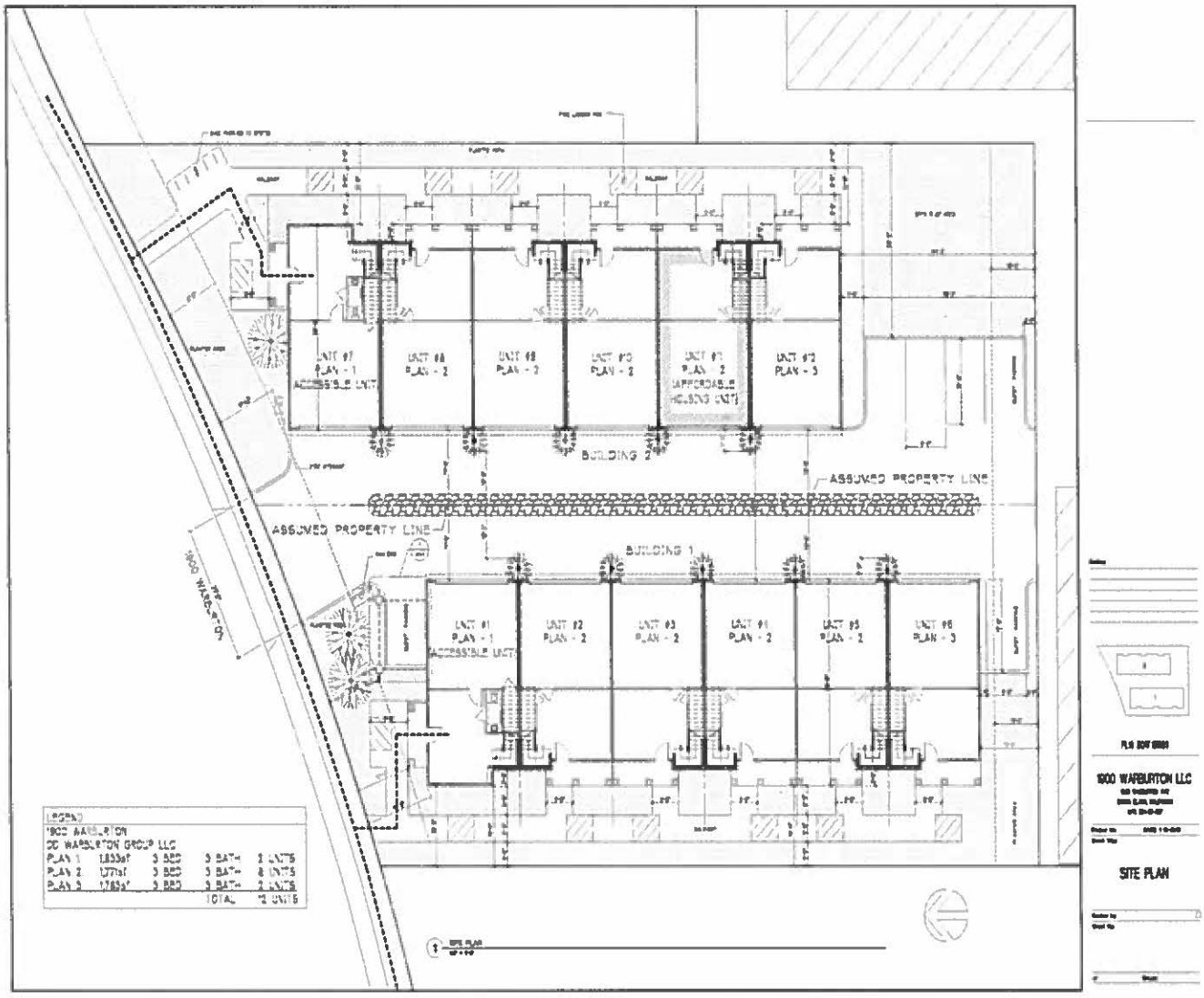
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND

DD WARBURTON GROUP LLC

ATTACHMENT B

BMP UNIT LOCATIONS

(Map Attached)


BUILDING 2
BUILDING 1
ASSUMED PROPERTY LINE
ASSUMED PROPERTY LINE
1900 WARBURTON LLC
SITE PLAN

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND

DD WARBURTON GROUP LLC

ATTACHMENT C

BMP PROGRAM POLICIES AND PROCEDURES

(Attached hereto)

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND

DD WARBURTON GROUP LLC

ATTACHMENT D

[INTENTIONALLY LEFT BLANK]

AFFORDABLE HOUSING AGREEMENT
by and between the
CITY OF SANTA CLARA, CALIFORNIA,
AND

DD WARBURTON GROUP LLC

ATTACHMENT E

INSURANCE COVERAGE REQUIREMENTS

Without limiting the Developer's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Developer shall purchase and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate
   $2,000,000 Products/Completed Operations aggregate
   $1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Developer; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Developer to comply with the insurance - requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross liability exclusion, which precludes coverage for claims or suits by one insured against another;

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability;

   d. Coverage shall contain no Contractor's' limitation endorsement limiting the scope of coverage for liability arising from pollution, personal injury, Owners' and Contractor's' protective Liability; and

e. Contractual Liability coverage shall expressly include all liability assumed under this Agreement.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars ($1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Developer and/or its sub-contractor's involved in such activities shall provide coverage with a limit of two million dollars ($2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars ($1,000,000) policy limit Bodily Injury by disease, one million dollars ($1,000,000) each accident/Bodily Injury and one million dollars ($1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Developer included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Developer or any sub-contractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. The City of Santa Clara, its officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Developer's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Developer shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from any other insurance, which the indemnities may possess, including any self-insurance or self-insured retention

they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Developer's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

   b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Attachment E, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Developer and City agree as follows:

1. Developer agrees to ensure that sub-contractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Developer, provide the same minimum insurance coverage required of Developer, except as with respect to limits. Developer agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Developer agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such sub-contractors and others engaged in the project will be submitted to City for review.

2. Developer agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Developer for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Developer in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Developer, and each and every sub-contractor (of every tier) shall, at its sole cost and expense, purchase and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Developer shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection

G. EVIDENCE OF COMPLIANCE

Developer or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Developer shall submit to City copies of the actual insurance policies or renewals or replacements.

Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.
The City of Santa Clara
Housing & Community Services Division
P.O. Box 100085 – S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Developer shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

20-614 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on a Resolution for the Use of City Electric Forces at Various Locations [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

Charter Section 1310 titled Contracts on Public Works states, in part, "that every contract involving an expenditure of more than one thousand dollars ($1,000) for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds shall be let to the lowest responsible bidder." The section further states that "the City Council may declare and determine that, in its opinion, the work in question may be performed better or more economically by the City with its own employees, and after the adoption of a resolution to this effect by at least four affirmative votes, it may proceed to have said work done in the manner stated, without further observance of the provisions of this section."

DISCUSSION

Staff believes that the work described below is best and most efficiently performed with City forces based upon the following factors: (1) the work is limited in size and scope; (2) City forces have knowledge and training in operating and maintaining the electric system that can be leveraged to more economically perform this work; and (3) bidding out the work and contracting with a private entity would not likely result in a lower overall cost or time savings. Therefore, staff recommends that the City Council make a finding that City forces can better perform the installation of the following electric facilities and approve the use of City forces.

Estimate Number:	36298
Location:	753 Poplar Street
Type of Service:	Reliability
Description of Work:	Install new 45' class 1 pole to replace existing rotten pole. Replace existing 25kVA overhead transformer.
Estimated Cost:	$5,609
Appropriation:	Electric Utility Fund (591) Project 2006 Distribution Capital Maintenance and Betterments
Source of Revenue:	Customer Service Charge

Estimate Number:	36351
Location:	South side of El Camino Real north of Benton Street
Type of Service:	Reliability
Description of Work:	Remove 360' of underground high voltage cable to allow developer conduit rework. Install 360' underground high voltage cable and 6 splices.
Estimated Cost:	$12,085

Appropriation:	Electric Utility Fund (591) Project 2006 Distribution Capital Maintenance and Betterments
Source of Revenue:	Contribution in Aid of Construction
Estimate Number:	34872
Location:	1627 Monroe Street
Type of Service:	Reliability
Description of Work:	Pull conductors through new conduit from (E) Secondary box to (N) Secondary box, attach to (E) source in secondary box and customer service lines; install 3 meters.
Estimated Cost:	$4,517
Appropriation:	Electric Utility Fund (591) Project 2006 Distribution Capital Maintenance and Betterments
Source of Revenue:	Customer Service Charges
Estimate Number:	34668
Location:	Reed Street between Lafayette and Grant Street
Type of Service:	New Business
Description of Work:	Install 1 padmounted transformer, 600’ underground cable, 10 new streetlights and 300’ streetlight conductors. Connect customer service and install meter for facility service.
Estimated Cost:	$56,353
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution
Estimate Number:	36406
Location:	1375 El Camino Real
Type of Service:	New Business
Description of Work:	Remove BT-2019 between MH-857 & MH-858 and replace once the developer installs conduit.
Estimated Cost:	$6,304
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution
Estimate Number:	35697
Location:	2200 Lawson Lane
Type of Service:	New Business
Description of Work:	Install 3-277/480V padmount transformers and pull new primary conductor to provide office building, amenity building, and parking garage. Replace 2 leaking padmount switches.
Estimated Cost:	$234,013
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution
Estimate Number:	35120

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Location:	2888 San Tomas Expressway
Type of Service:	New Business
Description of Work:	Install 2-12kV switches, 6,000’ cable, 60 splices and 42 termination elbows. Install metering for 2-12kV services.
Estimated Cost:	$310,335
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution, Customer Service Charges

Estimate Number:	35684
Location:	3090 Homestead Road
Type of Service:	Reliability
Description of Work:	Install new 70’ Class H4 wood pole, transmission post arms, and crossarms.
Estimated Cost:	$10,157
Appropriation:	Electric Utility Fund (591) Project 2006 Distribution Capital Maintenance and Betterments
Source of Revenue:	Customer Service Charges

Estimate Number:	35747
Location:	Lawrence Expressway and De Soto Avenue
Type of Service:	Reliability
Description of Work:	Replace Pole HS39.
Estimated Cost:	$8,895
Appropriation:	Electric Utility Fund (591) Project 2006 Distribution Capital Maintenance and Betterments
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36303
Location:	Monroe Street and Reeve Street
Type of Service:	Reliability
Description of Work:	Replace 10 spans of overhead wire with 397 KCMIL and replace 4 poles.
Estimated Cost:	$57,272
Appropriation:	Electric Utility Fund (591) Project 2006 Distribution Capital Maintenance and Betterments
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36155
Location:	2381 Monroe Street
Type of Service:	Reliability
Description of Work:	Interset new pole and move service drop.
Estimated Cost:	$2,008
Appropriation:	Electric Utility Fund (591) Project 2006 Distribution Capital Maintenance and Betterments
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36415
Location:	515 Aldo Avenue
Type of Service:	New Business

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Description of Work:	Install 1-45’ wood pole, primary framing, 3 overhead transformers and reconfigure 4 sets of overhead service cables, and add 2 additional sets to existing customer facilities.
Estimated Cost:	$11,989
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36476
Location:	4952 Bill Walsh Way
Type of Service:	New Business
Description of Work:	Install 600’ 15kV underground cable, 18-15kV splices and 6-15kV elbows to reroute BT loop for Northern Receiving Station power and clear facilities for a developer project.
Estimated Cost:	$15,421
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36137
Location:	575 Benton Street
Type of Service:	New Business
Description of Work:	Install and later remove facilities for temporary construction power. Facilities include 500kVA padmount transformer, 900’ underground cable and 16,000 amp metering.
Estimated Cost:	$34,411
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution, Customer Service Charges

Estimate Number:	35662
Location:	2904 Corvin Drive
Type of Service:	New Business
Description of Work:	Install new meter to 1,200A switchboard for construction temporary power.
Estimated Cost:	$1,675
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36462
Location:	5123 Calle De Sol
Type of Service:	Remove overhead 3 pot bank and padmount transformer.
Description of Work:	New Business
Estimated Cost:	$1,531
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36220
Location:	2445 Cabrillo Avenue
Type of Service:	New Business
Description of Work:	Install 20' riser cable on SVP pole and cover with protective moulding. Connect 2 sets customer service wires in SVP low voltage box and install 2 meters.
Estimated Cost:	$1,121
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	36447
Location:	2343 Calle Del Mundo
Type of Service:	New Business
Description of Work:	Remove 2 overhead 3 pot banks.
Estimated Cost:	$4,539
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution

Estimate Number:	35984
Location:	2305 Mission College Boulevard
Type of Service:	New Business
Description of Work:	Removal of 2 padmount transformers. Reconfiguration of Bridge Tap 595.
Estimated Cost:	$2,513
Appropriation:	Electric Utility Capital Fund (591) Project 2005 - New Business Estimate Work
Source of Revenue:	Customer/Developer Contribution

ENVIRONMENTAL REVIEW

The actions being considered are exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15302(c) (Class 2 - Replacement or Reconstruction) because they involve the replacement or reconstruction of existing utility systems and/or facilities involving negligible expansion of capacity, and 15303(d) (Class 3 - New Construction or Conversion of Small Structures), because they involve the construction of new electric utility extensions.

FISCAL IMPACT

The funds to support the staff time and related construction materials for the work detailed in this report, totaling $780,748 are included in the Adopted Fiscal Year 2020/21 Capital Improvement Program Budget, as indicated by each project appropriation. Of that total amount, $680,205 is in the New Business Estimate Work and $100,543 in the Transmission and Distribution Capital Maintenance and Betterments Capital Improvement Projects.

COORDINATION

This report has been coordinated with the Finance Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board

outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

Adopt a Resolution approving the use of City Electric Forces for the installation of facilities at 753 Poplar Street, south side of El Camino Real north of Benton Street, 1627 Monroe Street, Reed Street between Lafayette and Grant Street, 1375 El Camino Real, 2200 Lawson Lane, 2888 San Tomas Expressway, 3090 Homestead Road, Lawrence Expressway and De Soto Avenue, Monroe Street and Reeve Street, 2381 Monroe Street, 515 Aldo Avenue, 4952 Bill Walsh Way, 575 Benton Street, 2904 Corvin Drive, 5123 Calle De Sol, 2445 Cabrillo Avenue, 2343 Calle Del Mundo, and 2305 Mission College Boulevard.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Resolution - Use of City Electric Forces

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA AUTHORIZING THE USE OF CITY ELECTRIC FORCES PURSUANT TO CHARTER SECTION 1310

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City of Santa Clara's Charter section 1310 requires all contracts involving an expenditure of over $1,000 for a public works project to be let to the lowest responsible bidder;

WHEREAS, Charter section 1310 permits the City to use its own employees if the City Council determines that the public works may be done better or more economically by the City's own employees, and, upon such determination, the City may proceed to have the public works project completed without further observance of Charter section 1310;

WHEREAS, the City's Electric Department desires to perform certain public works, as set forth in the Report to Council dated September 1, 2020, by its own employees; and,

WHEREAS, the City Council has declared and determined that the work in question may be performed better or more economically by the City with its own employees.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. The City Council of the City of Santa Clara does hereby declare and determine that the public works set forth in the September 1, 2020 Report to Council, attached hereto and incorporated by this reference, may be performed better or more economically by the City with its own employees.

///

///

///

2. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF _____, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: September 1, 2020 Report to Council.

20-644 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on Award of Contract for the Scott Boulevard (Garrett Dr. - Central Expwy.) Traffic Signal Interconnect and Coordination Project (CE 18-19-15) [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

As part of the traffic signal management program, capital improvement projects (CIPs) are planned for replacing obsolete traffic signal controller cabinets, interconnecting signalized intersections, and connecting traffic signals to the City's Traffic Management Center (TMC) at City Hall to allow efficient traffic signal operation and travel time improvements. In 2018, the City received a Transportation Fund for Clean Air (TFCA) grant in the amount of $200,000 for Scott Boulevard (Garrett Drive - Central Expressway) Traffic Signal Interconnect and Coordination (Project). On February 5, 2019 (Agenda Item 2.C), the City Council authorized the City Manager to execute the Santa Clara Valley Transportation Authority Congestion Management Program TFCA Agreement FY 2018/19 to receive the grant and approved the transfer of $310,000 for a required local match to this Project.

The Project consists of installing traffic signal interconnect conduits, fiber optic cables, controller cabinets and other appurtenances along Scott Boulevard from Garrett Drive to Central Expressway, including fiber optic splicing and testing (Location Map, Attachment No. 1).

DISCUSSION

On July 8, 2020, bids were opened via video conference for construction of the Project. Five bids were received ranging from $207,649.31 to $355,291.60. The Bid Summary is included as Attachment No. 2. The bids included a base bid for the project improvements and two add alternates: 1) Installation of Traffic Monitoring Camera System and 2) Installation of Travel Time Bluetooth Reader System. The add alternates were established so that if costs came in too high, they could be deleted from the Project. Based on the bid results, staff recommends awarding the base bid and both add alternates.

The lowest total bid, submitted by DV Electric, Co. in the amount of $207,649.31 includes $172,949.31 for the Base Bid plus $16,000 for Add Alternate 1 and $18,700 for Add Alternate 2. The total bid is 9.5 percent above the Engineer's Estimate (EE) of $189,638, but the project budget is sufficient to address the additional cost. DV Electric, Co.'s bid was reviewed for compliance with the terms and conditions of the Bid Documents and found to be the lowest responsible and responsive bid. Staff recommends awarding the contract to DV Electric, Co.

The Project is scheduled for completion by Spring 2021. This timeframe is subject to change based on the current issues related to the COVID-19 pandemic. The contract includes prevailing wage

requirements.

ENVIRONMENTAL REVIEW

This project being considered is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15301(c), work within existing roadways that does not create additional automobile lanes.

FISCAL IMPACT

The cost of the construction contract is $207,649.31 (Base Bid plus Add Alt. 1 and 2) plus approximately 15 percent construction contingency of $31,150.69, for any potential change orders. Staff recognizes the potential unknowns and challenges of working with the existing facilities and hence recommends a 15 percent construction contingency for this Project. The total not-to-exceed construction contract amount is $238,800. Funding for the contract is available in Street and Highway Capital Fund's Scott Boulevard Traffic Signal Interconnect and Coordination project.

COORDINATION

This report has been coordinated with the City Attorney's Office and Finance Department.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220 or email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

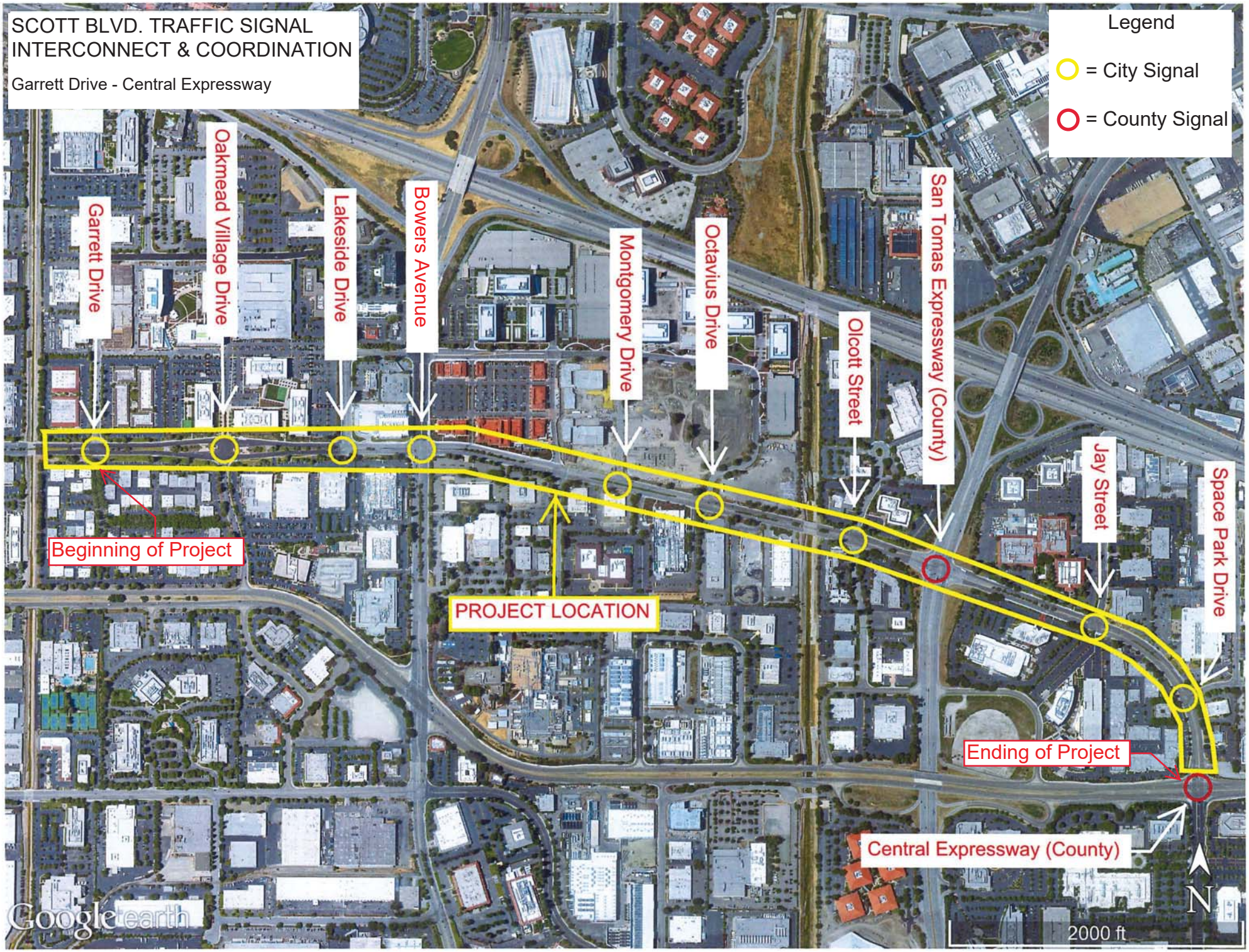
RECOMMENDATION

1. Award a Contract for the Scott Boulevard (Garrett Dr. - Central Expwy.) Traffic Signal Interconnect and Coordination Project (CE 18-19-15), including Base Bid, Add Alternate 1, and Add Alternate 2, to the lowest responsive and responsible bidder, DV Electric, Co., in the amount of $207,649.31 and authorize the City Manager to execute any and all documents associated with, and necessary for the award, completion, and acceptance of this Project; and
2. Authorize the City Manager to execute change orders up to approximately 15 percent of the original contract price, or $31,150.69, for a total not to exceed amount of $238,800.

Reviewed by: Craig Mobeck, Director of Public Works
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Location Map
2. Bid Summary


SCOTT BLVD. TRAFFIC SIGNAL INTERCONNECT & COORDINATION
Garrett Drive - Central Expressway
Legend
= City Signal
= County Signal
Garrett Drive
Oakmead Village Drive
Lakeside Drive
Bowers Avenue
Montgomery Drive
Octavius Drive
Olcott Street
San Tomas Expressway (County)
Jay Street
Space Park Drive
Beginning of Project
PROJECT LOCATION
Ending of Project
Central Expressway (County)
N
2000 ft
Google earth

City of Santa Clara

Attachment No. 2
Bid Summary

20-644 **Council Date:** 09/01/2020

REPORT TO COUNCIL

SUBJECT

Action on Award of Contract for the Scott Boulevard (Garrett Dr. – Central Expwy.) Traffic Signal Interconnect and Coordination Project (CE 18-19-15)

BID SUMMARY			**Bid Opening Date: July 8, 2020**
ENGINEER'S ESTIMATE (EE):	**Base Bid = $ 154,638.00** **Add Alt 1 = $ 7,000.00** **Add Alt 2 = $ 28,000.00**		**Total EE = $ 189,638.00**
Contractor	**Base Bid ($)** **Add Alt 1 ($)** **Add Alt 2 ($)**	**Total Bid ($)**	**Percentage above/below Engineer's Estimate**
DV Electric, Co.	$172,949.31 $16,000.00 $18,700.00	$ 207,649.31	9.5% above
St. Francis Electric, LLC.	$217,447.15 $26,700.00 $36,700.00	$ 280,847.15	48.1% above
Bear Electric Solution, Inc.	$227,110.00 $32,000.00 $62,000.00	$ 321,110.00	69.3% above
Ray's Electric	$298,260.00 $12,000.00 $32,000.00	$ 342,260.00	80.5% above
Tennyson Electric, Inc.	$305,391.60 $22,500.00 $27,400.00	$ 355,291.60	87.35% above

20-698 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on a Resolution Acknowledging Receipt by City Council of a State-Mandated Compliance Report on Required Annual Fire Inspections of Certain Occupancies [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

Senate Bill (SB) 1205, which became effective in September 2018, enhanced an existing law that required every city or county fire department or district providing fire protection services to annually inspect specific residential occupancies, including hotels, motels, boarding houses, apartment houses, fraternities, sororities, congregate residences, and similar for compliance with building standards, within the jurisdiction (HSC §13146.2). Existing law also requires annual inspection of every building used as a K-12th grade public or private school within the jurisdiction (HSC §13146.3). SB 1205 creates a new mandatory process whereby fire departments present a report annually to their governing authority regarding compliance with safety inspection requirements. SB 1205 further requires the governing authority to acknowledge receipt of the report via resolution or other similar formal document. Within the city of Santa Clara, for calendar year 2019, there were a total of 1,352 occupancies required to be inspected under the current state regulations.

DISCUSSION

Senate Bill 1205 requires that an inspection status report be given to Council during its annual budget discussions (or at another time determined by Council), and that Council acknowledge receipt of the report in the manner described above.

The Fire Department is pleased to report that 100.00% of the 37 public and private schools, and 99.9% of the 1,315 residential occupancy inspections required were completed in calendar year 2019 (see table below). The 0.1% (1 occupancy) not inspected in 2019, was subsequently inspected, as of this report date.

2019 Inspection Status Report Data

Occupancy Type	Inspections Required	Inspections Performed	% Complete
Public and Private Schools	37	37	100.00%
Residential R-1, R-2, R2.1, R-4 (see Attachment Appendix A - Occupancy Type Definitions)	1,315	1,314	99.9%

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California

Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

Council has previously approved a cost recovery mechanism for the inspection mandates in the form of inspection fees as allowed by the Health and Safety Code. Revenues and related expenditures were included in FY 2018/19 and FY 2019/20 budget appropriations, with no additional impacts.

COORDINATION

This report has been coordinated with the City Attorney's Office and the City Manager's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

Adopt a Resolution acknowledging receipt of a report from the Fire Chief of the Santa Clara Fire Department regarding the inspection of certain occupancies requiring annual inspections pursuant to sections 13146.2 and 13146.3 of the California Health and Safety Code.

Reviewed by: Ruben Torres, Fire Chief
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. SB 1205 Resolution
2. SB 1205 (HSC 13146.4)
3. Appendix A - Occupancy Type Definitions

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA ACKNOWLEDGING RECEIPT OF A REPORT FROM THE FIRE CHIEF OF THE SANTA CLARA FIRE DEPARTMENT REGARDING THE INSPECTION OF CERTAIN OCCUPANCIES REQUIRING ANNUAL INSPECTIONS PURSUANT TO SECTIONS 13146.2 AND 13146.3 OF THE CALIFORNIA HEALTH AND SAFETY CODE.

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, California Health & Safety Code Section 13146.4 was added in 2018, and became effective on September 27, 2018; and;

WHEREAS, California Health & Safety Code Sections 13146.2 and 13146.3 requires all fire departments, including the Santa Clara Fire Department, that provide fire protection services to perform annual inspections in every building used as a public or private school, hotel, motel, lodging house, apartment house, and certain residential care facilities for compliance with building standards, as provided; and,

WHEREAS, California Health & Safety Code Section 13146.4 requires all fire departments, including the Santa Clara Fire Department, that provide fire protection services to report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3; and,

WHEREAS, the City Council intends this Resolution to fulfill the requirements of the California Health & Safety Code regarding acknowledgment of the Santa Clara Fire Department's compliance with California Health and Safety Code Sections 13146.2 and 13146.3.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That said Council expressly acknowledges the measure of compliance of the Santa Clara Fire Department with California Health and Safety Code Sections 13146.2 and 13146.3 in the area encompassed by the City, as follows:

A. EDUCATIONAL GROUP E OCCUPANCIES:

Educational Group E occupancies are generally those public and private schools, used by more

than six persons at any one time for educational purposes through the 12th grade. Within the City, there lie 37 Group E occupancies, buildings, structures and/or facilities.

During calendar year 2019, the Santa Clara Fire Department completed the annual inspection of 37 Group E occupancies, buildings, structures and/or facilities. This is a compliance rate of 100% for this reporting period.

B. RESIDENTIAL GROUP R OCCUPANCIES:

Residential Group R occupancies, for the purposes of this resolution, are generally those occupancies containing sleeping units, and include hotels, motels, apartments (three units or more), etc. as well as mandated residential care facilities. These residential care facilities have several different sub-classifications, and they may contain residents or clients that have a range of needs, including those related to custodial care, mobility impairments, cognitive disabilities, etc. The residents may also be non-ambulatory or bedridden. Within the City, there lie 1,315 Group R (and their associated sub-categories) occupancies of this nature.

During calendar year 2019, the Santa Clara Fire Department completed the annual inspection of 1,314 Group R occupancies, buildings, structures and/or facilities. This is a compliance rate of 99.9 % for this reporting period.

2. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF _____, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None

STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Senate Bill No. 1205

CHAPTER 854

An act to add Section 13146.4 to the Health and Safety Code, relating to fire protection.

[Approved by Governor September 27, 2018. Filed with Secretary of State September 27, 2018.]

legislative counsel's digest

SB 1205, Hill. Fire protection services: inspections: compliance reporting.

Existing law requires the chief of any city or county fire department or district providing fire protection services and his or her authorized representatives to inspect every building used as a public or private school within his or her jurisdiction, for the purpose of enforcing specified building standards, not less than once each year, as provided. Existing law requires every city or county fire department or district providing fire protection services that is required to enforce specified building standards to annually inspect certain structures, including hotels, motels, lodging houses, and apartment houses, for compliance with building standards, as provided.

This bill would require every city or county fire department, city and county fire department, or district required to perform the above-described inspections to report annually to its administering authority, as defined, on the department's or district's compliance with the above-described inspection requirements, as provided. The bill would require the administering authority to acknowledge receipt of the report in a resolution or a similar formal document. To the extent this bill would expand the responsibility of a local agency, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 13146.4 is added to the Health and Safety Code, to read:

13146.4. (a) Every city or county fire department, city and county fire department, or district required to perform an annual inspection pursuant

to Sections 13146.2 and 13146.3 shall report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3.

(b) The report made pursuant to subdivision (a) shall occur when the administering authority discusses its annual budget, or at another time determined by the administering authority.

(c) The administering authority shall acknowledge receipt of the report made pursuant to subdivision (a) in a resolution or a similar formal document.

(d) For purposes of this section, "administering authority" means a city council, county board of supervisors, or district board, as the case may be.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Appendix A

Occupancy Classification and Use Definitions (2019 California Building Code)

Occupancy Type	Definition
Educational Group E	Occupancy includes, among others, the use of a building or structure, or a portion thereof, by more than six persons at any one time for educational purposes through the 12th grade.
Residential Group R-1	Residential occupancies containing sleeping units where the occupants are primarily transient in nature such as hotels, motels, and boarding houses (with more than 10 occupants).
Residential Group R-2	Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature such as apartment houses, boarding houses (with more than 16 occupants), convents and monasteries, dormitories, and fraternities and sororities.
Residential Group R-2.1	Buildings, structures or parts thereof housing clients, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services such as residential care facilities, group homes, and halfway houses. This occupancy may contain more than six non-ambulatory and/or bedridden clients.
Residential Group R-4	Residential Group R-4 occupancies shall include buildings, structures or portions thereof for more than six ambulatory clients, but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive custodial care, such as residential care facilities, group homes, and halfway houses.

20-710 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on the California Library Literacy Services Grant Awards Second Installment for the Adult Literacy Program and Related Budget Amendment [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

Each year, the State of California awards funding to libraries to support adult and family literacy programs through its California Library Literacy Services (CLLS) grant programs. For 2019/20, the Santa Clara Library's Read Santa Clara program received two grant awards: an Adult Literacy grant award in the amount of $48,072 and a Family Literacy grant award in the amount of $25,000 for a combined total of $73,072. The Family Literacy grant is distributed in a lump sum payment with the Adult Literacy grant distributed in two installments - a baseline allocation and a second installment that is a factor of the per capita amount spent per student and the local match an agency raises during the prior year. The baseline allocation was accepted by the City Council in December 2019.

The purpose of this report is to accept the second installment of the Adult Literacy Services grant in the amount of $30,072.

DISCUSSION

The State Library issued an award letter for the lump sum Family Literacy grant and the first installment of the Adult Literacy grant in August, 2019 (Attachment 1). The award letter for the second installment of the Adult Literacy Program in the amount of $30,072 was issued on December 23, 2019. (Attachment 2)

The Family Literacy grant funds are to be used to provide programming for English-speaking adults with low-literacy skills as they learn how to support their children's education and development.

The Adult Literacy Services grant funds are to be used for programs that match English-speaking adults with low literacy skills to 1-1 and group tutorial support. Eligible expenses include costs associated with as-needed salaries, contractual services and operational supplies. The deadline to expend CLLS Grant funds is December 31, 2020, as clarified in the email dated 6-2-2020 from Natalie Cole, California Library Literacy Services (Attachment 2)

Staff recommends that the City Council accept the second installment of the CLLS grant in the amount of $30,072 to support the Read Santa Clara Adult Literacy program. The Board of Library Trustees approved the staff recommendation at its February 3, 2020. (Attachment 3) Please note: as the grant funds were not included in the FY2020/21 Adopted Budget, acceptance of these funds will require an affirmative vote of five members of the City Council in accordance with the City Charter Section 1305 - Budget Appropriations.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

Acceptance of the second installment of $30,072 grant awards and approval of the appropriation of grant funds will help cover adult literacy programming for the Read Santa Clara program. There are no matching fund requirements. The FY 2020/21 Adopted Operating Budget includes $41,500 of California Library Literacy Services Grant revenue and appropriations of $41,500 in the Library Operating Grant Fund. Staff recommends an increase of $30,072 in grant revenue and appropriation of the full grant award for the FY 2020/21 Operating Budget in the Library Operating Grant Fund for the Read Santa Clara Adult Literacy Program.

Budget Amendment
FY 2020/21

	Current	Increase/ (Decrease)	Revised
Fund 112 - Library Operating Grant Fund			
Revenues			
California Library Literacy Services Grant	$41,500	$30,072	$71,572
Expenditures			
Read Santa Clara Adult Literacy Program	$41,500	$30,072	$71,572

COORDINATION

This report has been coordinated with the Finance Department.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

1. Accept the California Library Literacy Services grant award of $30,072; and
2. Approve the FY 2020/21 Operating Budget amendment in the Library Operating Grant Fund to recognize the grant funding of $30,072 and appropriate the funds to the Read Santa Clara Adult Literacy Program.

Reviewed by: Hilary Keith, City Librarian
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Award letter dated 12- 23- 2019
2. Clarification email dated 6-3-2020 from Natalie Cole, California Library Literacy Services
3. Report of Board of Library Trustees dated 2-3-2020

California
STATE LIBRARY
FOUNDED 1850
PRESERVING OUR HERITAGE, SHAPING OUR FUTURE

December 23, 2019

Santa Clara City Library
Hilary Keith, City Librarian
2635 Homestead Road
Santa Clara, CA 95051-5322

hkeith@santaclaraca.gov

Dear Ms. Keith:

I'm pleased to enclose a claim form for the remainder of your California Library Literacy Services funding for the 2019-2020 fiscal year. This **final, second payment** of your total allocation for the fiscal year that began July 1, 2019 is based on:

- A *per capita* amount per adult learner served at your library during the previous fiscal year.
- A *match* on local funds raised and expended for adult literacy services at your library during the fiscal year that ended June 30, 2019.

Earlier this year you received a baseline for your literacy program. The baseline reflects the importance of each library having enough funds to provide local literacy staffing and service.

Below is a summary of your total California Library Literacy Services funding for the current program year:

Adult Literacy 2019/20		
Baseline Adult Literacy Services:	$18,000	(amount previously claimed)
Final Payment (Per Capita & Match):	**$30,072**	(amount to be claimed now)
GRAND TOTAL for Adult Literacy:	**$48,072**	
Family Literacy Grant 2019/20	$25,000	
Grand Total for ALS & Family Literacy	**$73,072**	

Any changes in your funding from last year are based, in part, on an increase or decrease in the number of adult learners you served and/or the amount of local funds expended on your library literacy program last year.

We'll initiate the payment process upon receipt of your signed claim form and certification form which are attached. The forms serve as a request to claim the funds and have a check sent to you and a certification that your library will use the funds for the purpose intended.

This final payment will be processed after all reporting requirements from the prior fiscal year have been received, all adjustments made and unexpended monies returned.

916.653.5217 phone
916.653.8443 fax
www.library.ca.gov

Library Development Services Bureau
P. O. Box 942837 Sacramento, CA 94237-0001
900 N Street, 4th Floor, Sacramento, CA 95814

Please mail the signed claim form to: **California State Library**
Fiscal/Local Assistance
P.O. Box 942837
Sacramento, CA 94237-0001

The following specific issues or observations are being made about your Final Report:

We encourage your literacy staff to attend network meetings regularly. We will soon begin offering literacy staff the opportunity to participate in some network meetings online. Please let us know what else we can do to help your staff participate and benefit from the training and networking that takes place at the meetings.

In February, you'll be asked to revise your literacy budget for the 2019-2020 fiscal year utilizing the actual total allotment from the State Library shown in this award letter. The budget that you submitted with your application earlier this year was based on projections. Your revised budget should the updated information included in this letter.

You'll be asked to report electronically after the close of the fiscal year. Library literacy services staff will provide more details on this process.

PLEASE REMEMBER THAT
ALL STATE FUNDS MUST BE EXPENDED OR ENCUMBERED BY JUNE 30, 2020
OR RETURNED TO THE STATE.

If you need a copy of your most recent final report and/or application, or have any questions, please contact Natalie Cole at natalie.cole@library.ca.gov.

Thanks again for your commitment to literacy. It's one of the most transformative and successful things libraries do.

Respectfully yours,

Happy Holidays - Wish ya all the best in 2020!

Greg Lucas
California State Librarian

cc: Shanti Bhaskaran, Literacy Coordinator (via email:sbhaskaran@santaclaraca.gov)

Enc.: Claim Form
Certification Form

PLEASE COMPLETE AND RETURN THIS PAGE

Claim Form

State of California
California Library Literacy and English Acquisition Services (CLLS)

California Education Code; Section 18880-18883
Budget Citation Chapter 23 – Budget Item 6120-213-0001

Fiscal Year: 2019-2020	
Reporting Structure: 61202000	COA: 5432000; Approp. Ref: 213
Purchasing Authority Number: CSL-6120	Category: 84121600 Program #: 5312

FOR PAYMENT OF CALIFORNIA LIBRARY LITERACY SERVICES GRANT

Amount Claimed – Final Installment: **$30,072**

SANTA CLARA CITY LIBRARY

claims the indicated allowance for the purposes of carrying out the functions stated in its CLLS application and in Sections 18880-18883 of the California Education Code.

Warrant to be issued for payment to the library to be addressed to:

***Santa Clara Public Library, 2635 Homestead Rd, Santa Clara, CA 95051-5322**

(Authorized agency to receive, disburse and account for CLLS funds)

I hereby certify under penalty of perjury: that the library named above shall use their allowance solely for the purposes indicated in their CLLS application and in Sections 18880-18883 of the California Education Code.

Official Representative or Fiscal Agent (Signature Required)

Hilary Keith, City Librarian
Title

MAIL ONE ORIGINAL SIGNATURE TO:
California State Library
Fiscal Office – CLLS
P. O. Box 942837
Sacramento, CA 94237-0001

State Library Local Assistance Office Use Only

STATE OF CALIFORNIA, State Library Fiscal Office

By _____
State Library Representative

Approval by State:

CLLS $ _____

Date: _____

*The warrant address must match that on file in Fi$Cal. If you need to change the authorized library name and/or address, please contact Colette Moody, CSL Fiscal Office. (Colette.Moody@library.ca.gov)

PLEASE COMPLETE AND RETURN THIS PAGE

CERTIFICATION

I hereby certify under penalty of perjury: that I am the duly authorized representative of the claimant herein; that the claim is in all respects true, correct and in accordance with law and the terms of the agreement; and that payment has not previously been received for the amount claimed herein.

The claims the indicated allowance for the purposes of carrying out the functions stated in its CLLS application and in Sections 18880-18883 of the California Education Code.

SIGNED **DATE**

[signature] 1/9/20

Signature - Authorized representative

Kenn Lee, Director of Finance

Typed/Printed Name and Title of Authorized Representative

KLee @ santaclaraca.gov

Email address of authorized representative

MAIL ONE ORIGINAL SIGNATURE TO:
California State Library
Fiscal Office – CLLS
P. O. Box 942837
Sacramento, CA 94237-0001

From: Clls <clls-bounces@lists.libraryliteracy.org> **On Behalf Of** Cole, Natalie@CSL via Clls
Sent: Wednesday, June 3, 2020 10:55 AM
To: clls@lists.libraryliteracy.org; clls_dir-owner@lists.libraryliteracy.org
Cc: Roman, Annly@CSL <annly.roman@library.ca.gov>
Subject: [Clls] Budget Change Request form 2019-2020

Dear CLLS colleagues,

If your expenditure plans have changed since you submitted your Revised Budget Forms online, please complete the attached Budget Change Request documents and return them to the State Library by **Thursday, June 18, 2020**.

My colleague Annly Roman, who is cc'd here, is available to help you complete the documents and check them before you submit, if needed. Annly's email address is: annly.roman@library.ca.gov

When your documents are complete, please submit them to me at: natalie.cole@library.ca.gov

Further information about completing the documents is below. If you have any questions, please let us know.

Sincerely,

Natalie

Who should submit the Budget Change Request (BCR) documents?

If your expenditure plans have changed since you submitted your Revised Budget Form online through Counting Opinions, you need to complete BCR form and submit the BCR documents.

If your plans have not changed and the information you submitted on your Revised Budget Form is the same as the information you will submit on your Final Report form in summer 2020 you do not need to submit the BCR documents.

How do I check the information I submitted on the Revised Budget Form?

Log in to your account on Counting Opinions to see the information you submitted in your Revised Budget Form: https://ca.countingopinions.com

If you have questions about accessing your Revised Budget Form, please email: Annly.Roman@library.ca.gov

Expenditure plans

The information you submit on your BCR form should reflect your final anticipated expenditures for the 2019-2020 fiscal year.

The information should align with the encumbrances and expenditures you will report on your Final Report in summer 2020.

Your 2019-2020 funds must be spent by December 31, 2020, in accordance with the information you report on the BCR form and on the Final Report form that you will complete in summer 2020.

Please note: You may not change your expenditure plans after June 30, 2020.

Signing your documents

Due to the COVID-19 pandemic, you may complete and return the documents in one of two ways:

1) If you are able to enter a digital signature, please:

- complete the BCR form (excel spreadsheet)
- e-sign the BCR signature page (pdf)
- return both forms to the State Library, in an email to: natalie.cole@library.ca.gov

2) If you are unable to enter a digital signature, please

- complete the BCR form (excel spreadsheet)
- print, sign, and scan the the BCR form (excel spreadsheet)
- returned the scanned BCR form and the BCR signature page to the State Library, in an email to: natalie.cole@library.ca.gov

Confirmation from the State Library

We will return all counter signed documents to you by email.

Natalie Cole | Assistant Bureau Chief
California State Library | Library Development Services
Library & Courts Building II | 900 N Street | Sacramento, CA 95814
natalie.cole@library.ca.gov | (916) 701-6694

City of Santa Clara

Meeting Agenda

Board of Library Trustees

Monday, February 3, 2020 **6:00 PM** **Central Park Library, Board Room**
2635 Homestead Rd.
Santa Clara, CA 95051

CALL TO ORDER AND ROLL CALL

CONSENT CALENDAR

The items listed on the CONSENT CALENDAR are considered routine and will be adopted by one motion. There will be no separate discussion of the items on the CONSENT CALENDAR unless discussion is requested by a member of the Board, staff, or public.

1.A **20-1297** Board of Library Trustees Minutes of December 2, 2019

Recommendation: Approve December 2, 2019 meeting minutes.

1.B **20-114** Action on California Library Literacy Services Grant Awards

Recommendation: Recommend to City Council to accept the second installment of the California Library Literacy Services grant award of $30,072 into the Library Adult and Family Literacy Grant Fund, and approve the appropriation of funds to Adult and Family Literacy accounts for As-Needed Salary, Contractual Services and Operating Supplies. (Requires five affirmative votes by the City Council)

PUBLIC PRESENTATIONS

This portion of teh meeting is reserved for persons to address the Board of Library Trustees on any matter on the agenda. The law does not permit the Board of Library Trustees action o, or extended discussion of, any item not on the agenda except under special circumstances. Trustees or the staff liasison may breifly respond to statements made or questions posed and may request staff to report back at a subsequent meeting. Please limit your remarks to 3 minutes.

GENERAL BUSINESS

2 **20-113** Preparation for Informational Joint Dinner Meeting with City Council on March 31, 2020

Recommendation: There is no staff recommendation for this issue.

STAFF REPORT

20-112 Staff Report: Library Reports and Updates

20-115 Review and Update Worklist

TRUSTEES REPORT

ADJOURNMENT

The Board of Library Trustees Meeting is adjourned to March 2, 2020, at 6:00 PM.

20-715 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on First Amendment to Lease between Gahrahmat Family Limited Partnership 11, LP (Gahrahmat) for Commercial Space at 881 Martin Avenue (APN 224-04-090) for Silicon Valley Power [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

In 2015, Silicon Valley Power (SVP) entered into a five-year lease agreement with Gahrahmat for office space at 881 Martin Avenue for staff working in SVP's Resources, Power Trading, Systems Support, and Marketing and Customer Services Divisions. Since that time, a number of additional staff including engineering, estimating, and executive support staff have been moved out of City Hall and into 881 Martin Avenue freeing up space at City Hall for other City needs. That lease is expiring on October 31, 2020.

DISCUSSION

The parcel at 881 Martin Avenue includes nearly 32,500 square feet of building space and is centrally located between City Hall, the Electric Corporation yard and the Donald Von Raesfeld Power Plant. This is a triple net lease with the City paying a share of taxes, maintenance, and insurance. In addition, the City reimburses the property owner for a prorated share of services including utilities, repairs, and capital maintenance. This additional lease term represents an increase from $1.10 per square foot including taxes, insurance, and maintenance in 2015 to $1.86 per square foot in 2025. During the initial five-year term (2015-2020), the base rent increased from $1.10 per square foot to $1.24 per square foot, a 3% annual increase. During the next five-year period, the base rent would start at $1.65 per square foot and increase 3% annually to $1.86 per square foot. In late 2019, an analysis of local properties was completed to compare local lease rates. The rate of $1.65 per square foot beginning November 1, 2020 is very competitive when compared to similar commercial properties in Santa Clara. The triple net rate of $0.22 per square foot is also competitive and those costs have been stable through the previous five-year term.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b)(4) in that it is a fiscal activity that does not involve commitment to a specific project which may result in potential significant impact on the environment.

FISCAL IMPACT

The proposed amended agreement extends the term of the lease for five years for the period of November 1, 2020 through October 31, 2025. Year 1 of the lease extension is $53,615 per month plus a 3% annual escalator in subsequent years. Sufficient funds are available in the Contractual Services account in the operating Electric Utility and Electric Operating Grant Trust funds budget for

Fiscal Year 2020/21. The funding for this agreement is subject to annual appropriations and will be considered as part of future years' budget development process beyond Fiscal Year 2020/21.

COORDINATION

This report has been coordinated with the Finance Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

Authorize the City Manager to execute the First Amendment to Lease between Gahrahmat Family Limited Partnership 11, LP (Gahrahmat) for Commercial Space at 881 Martin Avenue (APN 224-04-090) for Silicon Valley Power.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Original Agreement and Council Report
2. First Amendment to Lease

City of Santa Clara
The Center of What's Possible

APPROVED
by Council
10-27-15

AGENDA ITEM #: 10.B.10

AGENDA REPORT

Date: October 27, 2015

To: City Manager for Council Action

From: Director of Electric Utility

Subject: Approval of Five Year Standard Industrial/Commercial Multi-Tenant Lease - Net Agreement with Gahrahmat Family Limited Partnership II, LP (APN 224-04-090) for Commercial Space at 881 Martin Street for Electric Department Resources, Power Trading and Marketing and Customer Services Divisions

EXECUTIVE SUMMARY

The Electric Department is currently leasing office space across Lincoln Street from City Hall at 1601 Civic Center Drive to house the Resources, Power Trading, Marketing and Customer Services Divisions on a month to month gross lease at $2.75 per square foot. In April, 2015 the building was sold and the new lease will go to a 5 year triple net lease which will include a share of operating expenses, insurance and property tax, with an estimated cost of approximately $3.00 per square foot. The City would also be responsible for 51% of any potential expenses for capital improvements in the common areas of the building over the next five years.

The Electric Department has located another parcel which is approximately 32,000 square feet of building space, which is centrally located between City Hall, the Electric Corporation yard and the Donald Von Raesfeld Power Plant. This lease is a five year triple net lease for $1.10 per square foot, plus $.22 per square foot triple net expenses for a total of $1.32 per square foot. The City would also be responsible for 58% of any potential expenses for capital improvements in the common areas of the building over the next five years. Major equipment (air handling units, backup generator) have been recently updated at this newer building so significantly lower capital improvements are expected. Landlord is funding $160,000 in tenant improvements toward the expected $300,000 move-in costs. Staff proposes to enter into a Standard Industrial/Commercial Multi-Tenant Lease – Net Agreement with Gahrahmat Family Limited Partnership II, LP. A copy of the Lease Agreement with Gahrahmat Family Limited Partnership LP can be viewed on the City's website or is available in the City Clerk's Office for review during normal business hours.

ADVANTAGES AND DISADVANTAGES OF ISSUE

The office space requirements for the Department Resources, Power Trading and Marketing and Customer Services Divisions cannot be met by current City facilities. The non-existence of adequate facilities will hinder the Department's ability to meet plan objectives. Entering into this agreement will require an overlap of three months of lease payments, and will mitigate the current risk of the month-to-month tenancy and reduce the risk of significant Capital Improvement costs at the existing location. Tenant improvements will begin November 1, 2015, with a move-in date of January, 2016.

ECONOMIC/FISCAL IMPACT

The rent for the first year of this five-year lease is to be $1.10 per square foot plus $.22 triple net expense, for a total of $1.32 per square foot. Base rent is subject to a 3% annual escalation. The cost for the first year of this lease will be $514,704.96. Sufficient funds are available in the Electric Department Contractual Services/Not Classified account, 091-1356-87870-(F)92300.

RECOMMENDATION

That the Council approve, and authorize the City Manager to execute, a Five Year Standard Industrial/Commercial Multi-Tenant Lease – Net Agreement with Gahrahmat Family Limited Partnership II, LP (APN 224-04-090), for an expected cost of $514,704.96 in the first year for commercial space at 881 Martin Ave. for the Electric Department Resources, Power Trading and Marketing and Customer Service Divisions, in substantially the form presented, subject to final review and approval by the City Attorney's Office.

John C. Roukema
Director of Electric Utility

Certified as to Availability of Funds: OK RC
091-1356-87870 $ 514,704.96

Gary Ameling
Director of Finance/
Assistant City Manager

APPROVED:

Julio J. Fuentes
City Manager

MAJORITY VOTE OF COUNCIL

Documents Related to this Report:

1) *Standard Industrial/Commercial Multi-Tenant Lease – Net with Gahrahmat Family Limited Partnership II, LP*

AIR COMMERCIAL REAL ESTATE ASSOCIATION
STANDARD INDUSTRIAL/COMMERCIAL MULTI-TENANT LEASE - NET

1. **Basic Provisions ("Basic Provisions").**

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only October 9, 2015, is made by and between Gahrahmat Family Limited Partnership II, LP ("Lessor") and City of Santa Clara dba Silicon Valley Power ("Lessee"), (collectively the "Parties", or individually a "Party").

1.2(a) **Premises:** That certain portion of the Project (as defined below), including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known by the street address of 881 Martin Avenue, located in the City of Santa Clara, County of Santa Clara, State of California, with zip code 95050, as outlined on Exhibit A attached hereto ("Premises") and generally described as (describe briefly the nature of the Premises): an approximately 32,494 rentable square foot portion of a larger approximately 56,239 square foot R&D building. The street address of the Premises is subject to change due to city requirements.

In addition to Lessee's rights to use and occupy the Premises as hereinafter specified, Lessee shall have non-exclusive rights to any utility raceways of the building containing the Premises ("Building") and to the common Areas (as defined in Paragraph 2.7 below), but shall not have any rights to the roof or exterior walls of the Building or to any other buildings in the Project. The Premises, the Building, the Common Areas, the land upon which they are located, along with all other buildings and improvements thereon, are herein collectively referred to as the "Project." (See also Paragraph 2)

1.2(b) **Parking:** One Hundred Twenty Eight (128) unreserved vehicle parking spaces. (See also Paragraph 2.6)

1.3 **Term:** Five (5) years and Zero (0) months ("Original Term") commencing November 1, 2015 ("Commencement Date") and ending October 31, 2020 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises ~~commencing~~ upon full lease execution so long as Lessee does not interfere with Tenant Improvements ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** $ 35,743.40 per month ("Base Rent"), payable on the first day of each month commencing November 1, 2015. (See also Paragraph 4)

☑ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 50

1.6 **Lessee's Share of Common Area Operating Expenses:** Fifty-seven and 78/100ths percent (57.78%) of the Building and Twenty and 62/100the percent (20.62%) of the Project ("Lessee's Share"). In the event that the size of the Premises and/or the Project are modified during the term of this Lease, Lessor shall recalculate Lessee's Share to reflect such modification. Lessor estimates the 2016 Common Area Operating Expenses at $0.22 per rentable square foot per month which is $7,148.68 per month plus pro-rata share of building/project's utilities.

1.7 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** $35,743.40 for the period November 1, 2015 - November 31, 2015.

(b) **Common Area Operating Expenses:** $7,148.68 for the period November 1, 2015 - November 30, 2015.

(c) **Security Deposit:** $0.00 ("Security Deposit"). (See also Paragraph 5)

~~(d) Other: $ for~~

(e) **Total Due Upon Execution of this Lease:** $42, 82.08.

1.8 **Agreed Use:** General office and all other legal uses. (See also Paragraph 6)

1.9 **Insuring Party.** Lessor is the "Insuring Party". (See also Paragraph 8)

1.10 **Real Estate Brokers:** (See also Paragraph 15 and 25)

(a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

☐ _____ represents Lessor exclusively ("Lessor's Broker");

☐ _____ represents Lessee exclusively ("Lessee's Broker"); or

☑ Cassidy Turley Commercial Real Estate Services, Inc., dba Cushman and Wakefield represents both Lessor and Lessee ("Dual Agency").

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement ~~(or if there is no such agreement, the sum of _____ or _____% of the total Base Rent)~~ for the brokerage services rendered by the Brokers.

~~1.11 Guarantor. The obligations of the Lessee under this Lease are to be guaranteed by _____ ("Guarantor"). (See also Paragraph 37)~~

1.12 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

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☑ an Addendum consisting of Paragraphs 50 through 57 ;

☑ a site plan depicting the Premises ("Exhibit A");

☑ a site plan depicting the Project ("Exhibit B");

☐ a current set of the Rules and Regulations for the Project;

☐ a current set of the Rules and Regulations adopted by the owners' association;

☐ a Work Letter;

☑ other (specify); Agency Confirmation (Attachment A); Real Property Disclosures (Attachment B);

2. **Premises.**

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 **Condition.** Lessor shall deliver that portion of the Premises contained within the Building ("Unit") to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing ~~electrical, plumbing, fire sprinkler, lighting,~~ heating, ventilating and air conditioning systems ("HVAC"), loading doors, sump pumps, if any, and all other such elements in the Unit, other than those constructed by Lessee, shall be in good operating condition on said date, that the structural elements of the roof, bearing walls and foundation of the Unit shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with such warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Unit. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense (except for the repairs to the fire sprinkler systems, roof, foundations, and/or bearing walls - see Paragraph 7). Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 49), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements and especially the zoning are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Unit, Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("Capital Expenditure"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and the amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay Interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with Interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not have any right to terminate this Lease.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises

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and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

2.6 **Vehicle Parking.** Lessee shall be entitled to use the number of parking spaces specified in Paragraph 1.2(b) on those portions of the Common Areas designated from time to time by Lessor for parking. Lessee shall not use more parking spaces than said number. Said parking spaces shall be used for parking by vehicles no larger than full-size passenger automobiles or pick-up trucks, herein called **"Permitted Size Vehicles."** Lessor may regulate the loading and unloading of vehicles by adopting Rules and Regulations as provided in Paragraph 2.9. No vehicles other than Permitted Size Vehicles may be parked in the Common Area without the prior written permission of Lessor. In addition:

(a) Lessee shall not permit or allow any vehicles that belong to or are controlled by Lessee or Lessee's employees, suppliers, shippers, customers, contractors or invitees to be loaded, unloaded, or parked in areas other than those designated by Lessor for such activities.

(b) Lessee shall not service or store any vehicles in the Common Areas.

(c) If Lessee permits or allows any of the prohibited activities described in this Paragraph 2.6, then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove or tow away the vehicle involved and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.7 **Common Areas - Definition.** The term **"Common Areas"** is defined as all areas and facilities outside the Premises and within the exterior boundary line of the Project and interior utility raceways and installations within the Unit that are provided and designated by the Lessor from time to time for the general non-exclusive use of Lessor, Lessee and other tenants of the Project and their respective employees, suppliers, shippers, customers, contractors and invitees, including parking areas, loading and unloading areas, trash areas, roadways, walkways, driveways and landscaped areas.

2.8 **Common Areas - Lessee's Rights.** Lessor grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, contractors, customers and invitees, during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time to time, subject to any rights, powers, and privileges reserved by Lessor under the terms hereof or under the terms of any rules and regulations or restrictions governing the use of the Project. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by the prior written consent of Lessor or Lessor's designated agent, which consent may be revoked at any time. In the event that any unauthorized storage shall occur then Lessor shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be immediately payable upon demand by Lessor.

2.9 **Common Areas - Rules and Regulations.** Lessor or such other person(s) as Lessor may appoint shall have the exclusive control and management of the Common Areas and shall have the right, from time to time, to establish, modify, amend and enforce reasonable rules and regulations **("Rules and Regulations")** for the management, safety, care, and cleanliness of the grounds, the parking and unloading of vehicles and the preservation of good order, as well as for the convenience of other occupants or tenants of the Building and the Project and their invitees. Lessee agrees to abide by and conform to all such Rules and Regulations, and shall use its best efforts to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessor shall not be responsible to Lessee for the non-compliance with said Rules and Regulations by other tenants of the Project.

2.10 **Common Areas - Changes.** Lessor shall have the right, in Lessor's sole discretion, from time to time:

(a) To make changes to the Common Areas, including, without limitation, changes in the location, size, shape and number of driveways, entrances, parking spaces, parking areas, loading and unloading areas, ingress, egress, direction of traffic, landscaped areas, walkways and utility raceways;

(b) To close temporarily any of the Common Areas for maintenance purposes so long as reasonable access to the Premises remains available;

(c) To designate other land outside the boundaries of the Project to be a part of the Common Areas;

(d) To add additional buildings and improvements to the Common Areas;

(e) To use the Common Areas while engaged in making additional improvements, repairs or alterations to the Project, or any portion thereof; and

(f) To do and perform such other acts and make such other changes in, to or with respect to the Common Areas and Project as Lessor may, in the exercise of sound business judgment, deem to be appropriate.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations to pay Lessee's Share of Common Area Operating Expenses, Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its

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obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 **Common Area Operating Expenses.** Lessee shall pay to Lessor during the term hereof, in addition to the Base Rent, Lessee's Share (as specified in Paragraph 1.6) of all Common Area Operating Expenses, as hereinafter defined, during each calendar year of the term of this Lease, in accordance with the following provisions:

(a) **"Common Area Operating Expenses"** are defined, for purposes of this Lease, as all costs relating to the ownership and operation of the Project, including, but not limited to, the following:

(i) The operation, repair and maintenance, in neat, clean, good order and condition , and if necessary the replacement, of the following:

(aa) The Common Areas and Common Area improvements, including parking areas, loading and unloading areas, trash areas, roadways, parkways, walkways, driveways, landscaped areas, bumpers, irrigation systems, Common Area lighting facilities, fences and gates, elevators, roofs, exterior walls of the buildings, building systems and roof drainage systems.

(bb) Exterior signs and any tenant directories.

(cc) Any fire sprinkler systems.

(dd) All other areas and improvements that are within the exterior boundaries of the Project but outside of the Premises and/or any other space occupied by a tenant.

(ii) The cost of water, gas, electricity and telephone to service the Common Areas and any utilities not separately metered.

(iii) The cost of trash disposal, pest control services, property management, security services, owners' association dues and fees, the cost to repaint the exterior of any structures and the cost of any environmental inspections.

(iv) Reserves set aside for maintenance, repair and/or replacement of Common Area improvements and equipment.

(v) Real Property Taxes (as defined in Paragraph 10).

(vi) The cost of the premiums for the insurance maintained by Lessor pursuant to Paragraph 8.

(vii) Any deductible portion of an insured loss concerning the Building or the Common Areas.

(viii) Auditors', accountants' and attorneys' fees and costs related to the operation, maintenance, repair and replacement of the Project.

(ix) The cost of any capital improvement to the Building or the Project not covered under the provisions of Paragraph 2.3 provided; however, that Lessor shall allocate the cost of any such capital improvement over a 12 year period and Lessee shall not be required to pay more than Lessee's Share of 1/144th of the cost of such capital improvement in any given month.

(x) The cost of any other services to be provided by Lessor that are stated elsewhere in this Lease to be a Common Area Operating Expense.

(b) Any Common Area Operating Expenses and Real Property Taxes that are specifically attributable to the Unit, the Building or to any other building in the Project or to the operation, repair and maintenance thereof, shall be allocated entirely to such Unit, Building, or other building. However, any Common Area Operating Expenses and Real Property Taxes that are not specifically attributable to the Building or to any other building or to the operation, repair and maintenance thereof, shall be equitably allocated by Lessor to all buildings in the Project.

(c) The inclusion of the improvements, facilities and services set forth in Subparagraph 4.2(a) shall not be deemed to impose an obligation upon Lessor to either have said improvements or facilities or to provide those services unless the Project already has the same, Lessor already provides the services, or Lessor has agreed elsewhere in this Lease to provide the same or some of them.

(d) Lessee's Share of Common Area Operating Expenses is payable monthly on the same day as the Base Rent is due hereunder. The amount of such payments shall be based on Lessor's estimate of the annual Common Area Operating Expenses. Within 60 days after written request (but not more than once each year) Lessor shall deliver to Lessee a reasonably detailed statement showing Lessee's Share of the actual Common Area Operating Expenses for the preceding year. If Lessee's payments during such year exceed Lessee's Share, Lessor shall credit the amount of such over-payment against Lessee's future payments. If Lessee's payments during such year were less than Lessee's Share, Lessee shall pay to Lessor the amount of the deficiency within 10 days after delivery by Lessor to Lessee of the statement.

(e) Common Area Operating Expenses shall not include any expenses paid by any tenant directly to third parties, or as to which Lessor is otherwise reimbursed by any third party, other tenant, or insurance proceeds.

4.3 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of $25 in addition to any Late Charge and Lessor, at its option, may require all future Rent be paid by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Common Area Operating Expenses, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful perf ormance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. ~~If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent.~~ Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the

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extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease.

6. **Use**.

6.1 **Use**. Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the Building or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Project. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 **Hazardous Substances**.

(a) **Reportable Uses Require Consent**. The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "**Reportable Use**" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor**. If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation**. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification**. Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from areas outside of the Project not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.

(e) **Lessor Indemnification**. Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which are suffered as a direct result of Hazardous Substances on the Premises prior to Lessee taking possession or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations**. Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to the Lessee taking possession, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option**. If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or $100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such

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notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or $100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants shall have the right to enter into Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting the condition of the Premises and for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of written request therefor.

7. Maintenance; Repairs, Utility Installations; Trade Fixtures and Alterations.

7.1 **Lessee's Obligations.**

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights but excluding any items which are the responsibility of Lessor pursuant to Paragraph 7.2. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, if and when installed on the Premises: (i) HVAC equipment, (ii) boiler and pressure vessels, and (iii) clarifiers. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay Interest on the unamortized balance but may prepay its obligation at any time.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 4.2 (Common Area Operating Expenses), 6 (Use), 7.1 (Lessee's Obligations), 9 (Damage or Destruction) and 14 (Condemnation), Lessor, subject to reimbursement pursuant to Paragraph 4.2, shall keep in good order, condition and repair the foundations, exterior walls, structural condition of interior bearing walls, exterior roof, fire sprinkler system, Common Area fire alarm and/or smoke detection systems, fire hydrants, parking lots, walkways, parkways, driveways, landscaping, fences, signs and utility systems serving the Common Areas and all parts thereof, as well as providing the services for which there is a Common Area Operating Expense pursuant to Paragraph 4.2. Lessor shall not be obligated to paint the exterior or interior surfaces of exterior walls nor shall Lessor be obligated to maintain, repair or replace windows, doors or plate glass of the Premises. Lessee expressly waives the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term **"Utility Installations"** refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term **"Trade Fixtures"** shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term **"Alterations"** shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. **"Lessee Owned Alterations and/or Utility Installations"** are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the

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foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialman's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations not a part of this Lease or its Exhibits made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if this Lease is for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Project) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.**

8.1 **Payment of Premiums.** The cost of the premiums for the insurance policies required to be carried by Lessor, pursuant to Paragraphs 8.2(b), 8.3(a) and 8.3(b), shall be a Common Area Operating Expense. Premiums for policy periods commencing prior to, or extending beyond, the term of this Lease shall be prorated to coincide with the corresponding Start Date or Expiration Date.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than $1,000,000 per occurrence with an annual aggregate of not less than $2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

Notwithstanding anything to the contrary in this Lease, in lieu of maintaining any or all of the insurance required above, Lessee may elect to self-insure such risks, provided that such self-insurance shall afford Lessor all of the protection and coverages required by this paragraph as if the insurance were provided by an independent carrier, including, without limitation, the waiver of subrogation and additional insured requirements described above.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 **Property Insurance - Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage

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amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed $5,000 per occurrence.

(b) **Rental Value.** Lessor shall also obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period.

(c) **Adjacent Premises.** Lessee shall pay for any increase in the premiums for the property insurance of the Building and for the Common Areas or other buildings in the Project if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

(d) **Lessee's Improvements.** Since Lessor is the Insuring Party, Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

8.4 **Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed $1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 **Insurance Policies.** Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 **Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 **Indemnity.** Except for Lessor's gross~~active~~ negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 **Exemption of Lessor and its Agents from Liability.** Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: ~~(i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce provisions of any other lease in the Project, or (iii)~~ injury to Lessee's business or for any loss of income or profit therefrom. ~~Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.~~

8.9 **Failure to Provide Insurance.** Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 **Definitions.**

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 3 months or less from the date of the damage or destruction, and the cost thereof does not exceed a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 3 months or less from the date of the damage or destruction and/or the cost thereof exceeds a sum equal to 6 month's Base Rent. Lessor shall notify Lessee in writing within 30 days from

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the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) "Insured Loss" shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) "Replacement Cost" shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

(e) "Hazardous Substance Condition" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is $10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense (subject to reimbursement pursuant to Paragraph 4.2), in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes.**

10.1 **Definition.** As used herein, the term "Real Property Taxes" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Project address and where the proceeds so generated are to be applied by the city, county or other local taxing authority of a jurisdiction within which the Project is located. The term "Real Property Taxes" shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events

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occurring during the term of this Lease, including but not limited to, a change in the ownership of the Project, (ii) a change in the improvements thereon, and/or (iii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease. In calculating Real Property Taxes for any calendar year, the Real Property Taxes for any real estate tax year shall be included in the calculation of Real Property Taxes for such calendar year based upon the number of days which such calendar year and tax year have in common.

10.2 **Payment of Taxes.** Except as otherwise provided in Paragraph 10.3, Lessor shall pay the Real Property Taxes applicable to the Project, and said payments shall be included in the calculation of Common Area Operating Expenses in accordance with the provisions of Paragraph 4.2.

10.3 **Additional Improvements.** Common Area Operating Expenses shall not include Real Property Taxes specified in the tax assessor's records and work sheets as being caused by additional improvements placed upon the Project by other lessees or by Lessor for the exclusive enjoyment of such other lessees. Notwithstanding Paragraph 10.2 hereof, Lessee shall, however, pay to Lessor at the time Common Area Operating Expenses are payable under Paragraph 4.2, the entirety of any increase in Real Property Taxes if assessed solely by reason of Alterations, Trade Fixtures or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 **Joint Assessment.** If the Building is not separately assessed, Real Property Taxes allocated to the Building shall be an equitable proportion of the Real Property Taxes for all of the land and improvements included within the tax parcel assessed, such proportion to be determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available. Lessor's reasonable determination thereof, in good faith, shall be conclusive.

10.5 **Personal Property Taxes.** Lessee shall pay prior to delinquency all taxes assessed against and levied upon Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee contained in the Premises. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. Notwithstanding the provisions of Paragraph 4.2, if at any time in Lessor's sole judgment, Lessor determines that Lessee is using a disproportionate amount of water, electricity or other commonly metered utilities, or that Lessee is generating such a large volume of trash as to require an increase in the size of the trash receptacle and/or an increase in the number of times per month that it is emptied, then Lessor may increase Lessee's Base Rent by an amount equal to such increased costs. There shall be no abatement of Rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

12. **Assignment and Subletting.**

12.1 **Lessor's Consent Required.**

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent. *Said consent not to be unreasonably withheld.*

~~(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.~~

~~(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.~~

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, ie. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 **Terms and Conditions Applicable to Assignment and Subletting.**

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefore to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of $500 as consideration for Lessor's considering

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and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. **Default; Breach; Remedies.**

13.1 **Default; Breach.** A **"Default"** is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A **"Breach"** is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 41, (viii) material data safety sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 2.9 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of

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the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 **Inducement Recapture.** Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as **"Inducement Provisions"**, shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 **Late Charges.** Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or $100, whichever is greater. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 **Interest.** Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 **Breach by Lessor.**

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. **Condemnation.** If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively **"Condemnation"**), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the floor area of the Unit, or more than 25% of the parking spaces is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by

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Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. **Brokerage Fees.**

~~**15.1 Additional Commission.** In addition to the payments owed pursuant to Paragraph 1.10 above, and unless Lessor and the Brokers otherwise agree in writing, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires from Lessor any rights to the Premises or other premises owned by Lessor and located within the Project, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.~~

15.2 **Assumption of Obligations.** Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.10, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 **Representations and Indemnities of Broker Relationships.** Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. **Estoppel Certificates.**

(a) Each Party (as **"Responding Party"**) shall within 10 days after written notice from the other Party (the **"Requesting Party"**) execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current **"Estoppel Certificate"** form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or $100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. **Definition of Lessor.** The term **"Lessor"** as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word **"days"** as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

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23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) *Lessor's Agent.* A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) *Lessee's Agent.* An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) *Agent Representing Both Lessor and Lessee.* A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any Default or Breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on monthly basis. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the

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documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a **"Non-Disturbance Agreement"**) from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, **"Prevailing Party"** shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Def aultor resulting Breach ($200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "For Sublease" signs which may be placed only on the Premises, Lessee shall not place any sign upon the Project without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor f orBreach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

~~37. Guarantor.~~

~~37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.~~

~~37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.~~

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted any option, as defined below, then the following provisions shall apply.

39.1 **Def inition. "Option"** shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if

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requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any mulliple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effecl, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof),or (ii) if Lessee commits a Breach of this Lease.

40. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

41. **Reservations.** Lessor reserves the right: (i) to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, (ii) to cause the recordation of parcel maps and restrictions, and (iii) to create and/or install new utility raceways, so long as such easements, rights, dedications, maps, restrictions, and utility raceways do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate such rights.

42. **Performance Under Protest.** . If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

43. **Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behall of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver lo the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

44. **Conflict.** Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

45. **Offer.** Preparation of this Lease by either party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

46. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or relinancing of the Premises.

47. **Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.**

48. **Arbitration of Disputes.** An Addendum requiring lhe Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☑ is not attached to this Lease.

49. **Accessibility; Americans with Disabilities Act.**

(a) The Premises: ☑ have not undergone an inspection by a Certified Access Specialist (CASp). ☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. ☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions lo the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALLY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL A S TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.

2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: SANTA CLARA, CA
On: 10-20-15

Executed at: Santa Clara, CA
On: 10/27/15

By LESSOR:
Gahrahmat Family Limited Partnership II, LP

By: [signature]
Name Printed: MAHMOOD GAHRAHMAT
Title: MANAGING PARTNER

By:
Name Printed:
Title:
Address: 3476 Edward Avenue
Santa Clara, CA 95054

Telephone:(408) 986-0451
Facsimile:( )
Email:
Email:
Federal ID No.

By LESSEE:
City of Santa Clara dba Silicon Valley Power

By: [signature]
Name Printed: Julio J. Fuentes
Title: City Manager

By: [signature]
Name Printed: Richard Nosky
Title: City Attorney
Address:

Telephone:( )
Facsimile:( )
Email:
Email:
Federal ID No.

ATTEST:
for Bernadette Delaney
City Clerk

BROKER:
Cassidy Turley Commercial Real Estate Services Inc, dba Cushman & Wakefield

Attn: Dave Geissberger / Kalil Jenab
Title: Vice President / Vice Chairman
Address: 300 Santana Row, Fifth Floor
San Jose, CA 95128
Telephone:(408) 615-3400
Facsimile:(408) 615-3444
Email:dave.geissberger@cushwake.com / kalil.jenab@cushwake.com
Federal ID No.
Broker/Agent BRE License #: 01401887 / 00848988

BROKER:
Cassidy Turley Commercial Real Estate Services Inc., dba Cushman & Wakefield

Attn: Dave Geissberger / Kalil Jenab
Title: Vice President / Vice Chairman
Address:300 Santana Row, Fifth Floor
San Jose, CA 95128
Telephone: (408) 615-3400
Facsimile:(408) 615-3444
Email:dave.geissberger@cushwake.com / kalil.jenab@cushwake.com
Federal ID No.
Broker/Agent BRE License #: 01401887 / 00848988

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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INITIALS

INITIALS

Exhibit A

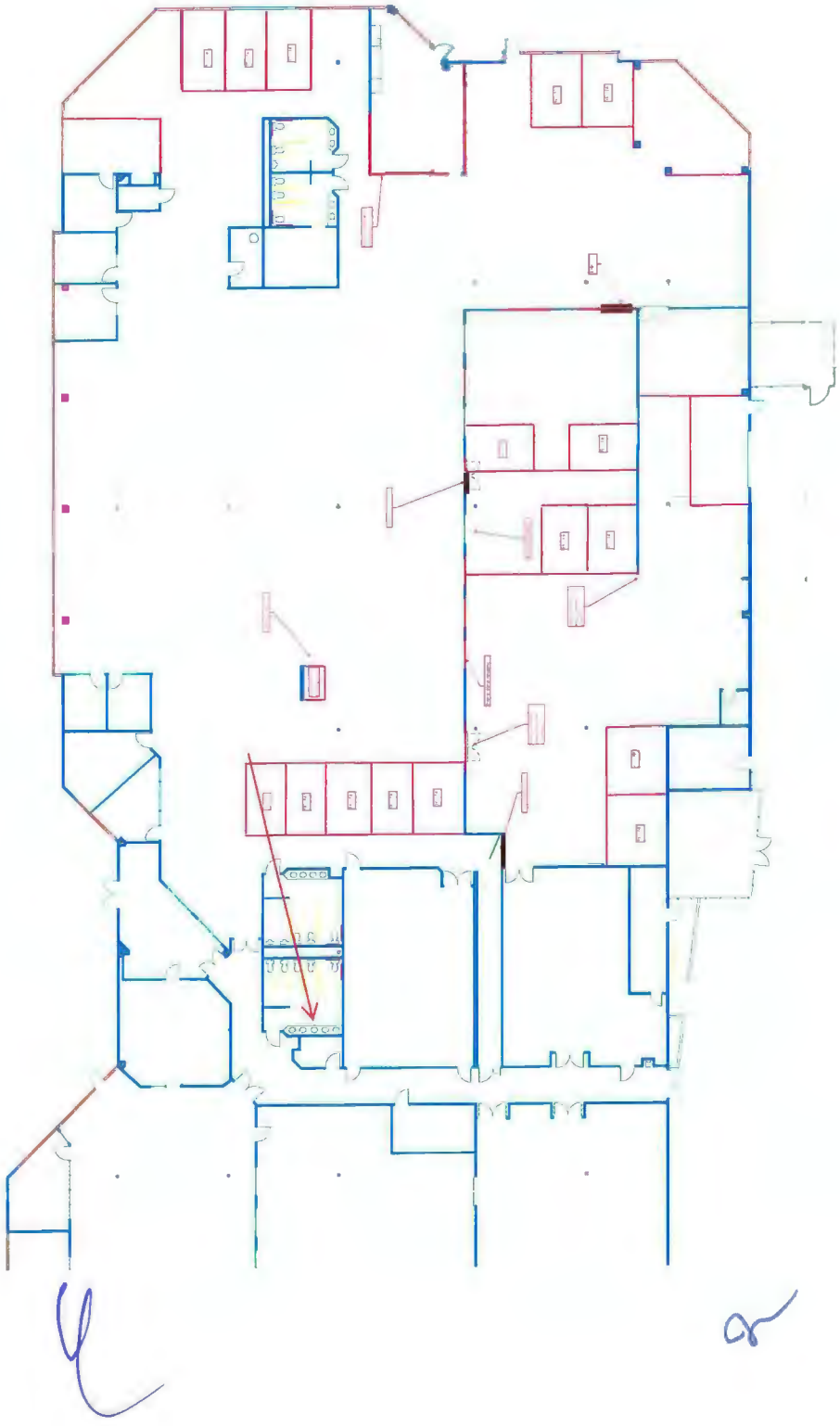
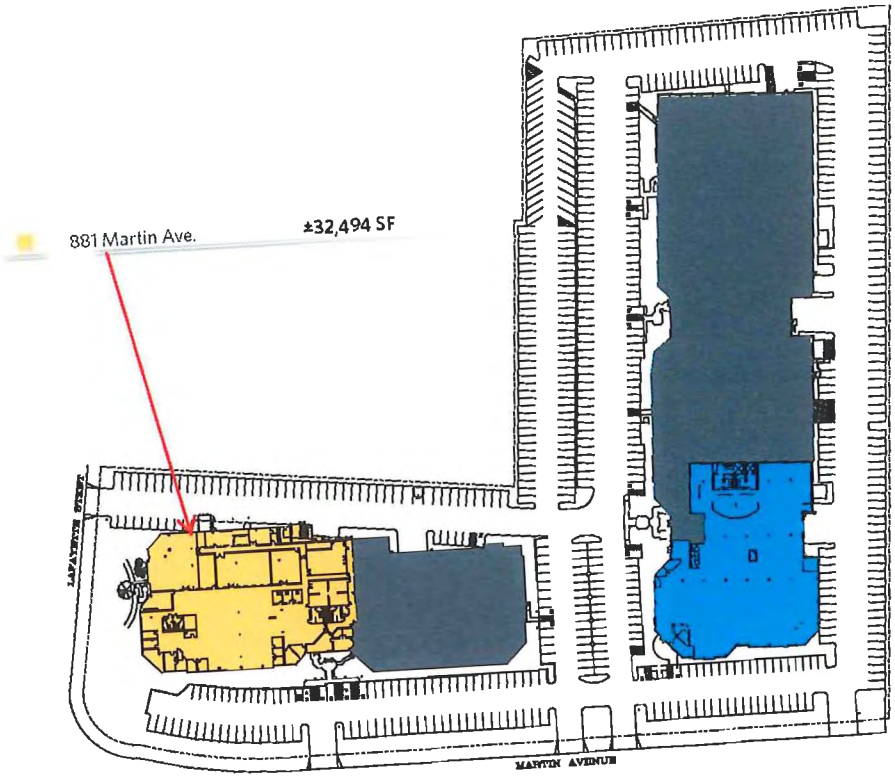


Exhibit B



ADDENDUM TO STANDARD INDUSTRIAL/COMMECIAL MULTI-TENANT LEASE – NET

By and Between

Gahrahmat Family Limited Partnership II, LP ("Lessor")
AND
City of Santa Clara dba Silicon Valley Power ("Lessee")

THIS ADDENDUM (this "Addendum"), dated as of August 28, 2015, is made to the Standard Industrial/Commercial Multi-Tenant Office Lease – Net, dated as of even date herewith (as hereby modified and supplemented, the "Lease"), by and between **Gahrahmat Family Limited Partnership II, LP**, as Lessor, and **City of Santa Clara dba Silicon Valley Power**, as Lessee, for Premises located at 881 Martin Avenue, Santa Clara, California.

NOW, THEREFORE, in consideration of the mutual promises herein, and for good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the parties hereto hereby modify, amend and/or supplement the Lease as follows, it being agreed that to the extent of any conflict between the Lease and this Addendum, the terms and conditions of this Addendum shall control:

50. ANNUAL RENT INCREASES. Base Rent is payable in the following amounts and shall be adjusted as provided below:

Months	Rent/Month NNN
1-12	$ 35,743.40
13-24	$ 36,815.70
25-36	$ 37,920.17
27-48	$ 39,057.78
49-60	$ 40,229.51

51. TENANT IMPROVEMENTS. Lessor shall provide and pay for the following:

a. Two (2) 12 ton cooling units for the server room
b. Repair vandalized electrical panels located in the server room
c. Deliver the existing Generator in good working order including all of its maintenance and repair documentations in Lessor's possession.

Lessor shall also provide One Hundred and Sixty-Two Thousand Four Hundred and Seventy and 00/100 Dollars ($162,470.00) towards mutually agreed to improvements as described in Exhibit A of this agreement. Tenant agrees to supervise/manage the construction of said improvements and the General Contractor ("Technical Builders"). Tenant, at Tenants sole cost and expense shall be allowed to demo/remove existing Liebert units in the server room without any obligation to restore upon lease Termination. The mutually approved initial tenant improvements referenced in this section shall not be subject to Restoration upon lease Termination.

Lessor shall expend such allowance on the design, construction, and management of the Tenant Improvements, including, without limitation, costs for labor, materials, permits and reasonable project management fees. The purpose of the Tenant Improvement Allowance is for the completion of the Tenant Improvements described in this section of this Lease, Lessee shall assume sole responsibility, without right to reimbursement from Lessor, for all Tenant Improvements costs in excess of One Hundred Sixty Two Thousand For Hundred Seventy Dollars and 00/00 ($162,470,00). Any such excess will be billed to Lessee by Lessor for immediate payment to Lessor within I0 days of receipt of an invoice for reimbursement.

52. RIGHT OF FIRST OFFER TO EXPAND PREMISES. In the event that, prior to the Lease Expiration Date or any extensions thereof, Lessor receives a bona-fide offer to lease the adjacent space in the Building or the entire Building from a third party ("Third-Party Bona-Fide Offer"), then Lessor shall provide written notice thereof to Lessee ("Lessor's Notice"). Such Lessor's Notice shall contain a summary of the terms of the Third-Party Bona-Fide Offer. Lessee shall have five (5) business days after receipt of Lessor's Notice to submit a written lease proposal ("Lease Proposal") to Lessor containing the terms upon which Lessee proposes to lease the subject space from Lessor. If Lessor and Lessee are unable to agree on the business terms of the Lease Proposal within five business days of Lessor's receipt of the Lease Proposal, Lessor shall be free to lease the subject space to any other party and Lessor shall have no further obligation to negotiate with Lessee and this provision shall be no longer in effect.

53. LEASE EXTENSION.

53.1 Tenant shall be granted one (1) option to extend the lease an additional term of five (5) years. Rent for the option term shall be at the then fair market rate for similar type Office/R&D space in the surrounding area of Santa Clara. ("Agreement to Extend"). Tenant shall give Lessor nine (9) months prior written notice of exercising its option to extend and they shall reach such mutual agreement ninety (90) days prior to the Lease Expiration Date.

53.2 The Lease shall be extended for a five (5) year term upon all of the terms and conditions of this Lease, provided that the Base Monthly Rent for the extension period shall be the "Fair Market Rent" for the Leased Premises, increased as set forth below. For purposes hereof, "Fair Market Rent" shall mean the Monthly Rent determined pursuant to the process described below for similar type Office/R&D space in the surrounding area of Santa Clara. In no event, however, shall any adjustment of Base Monthly Rent pursuant to this paragraph result in a decrease of the Monthly Rent for the Leased Premises below the amount due from Lessee for the preceding portion of the initial Lease Term for which Monthly Rent had been fixed. At the end of the first 12 month period of the extension Period, Monthly Rent shall be increased by 3%, and 3% every anniversary thereafter. No leasing commissions shall be due or payable to any broker retained by Lessee with regard to this Lease for any Extension Period.

53.3 Within thirty (30) days after the parties reach an Agreement to Extend, Lessor shall notify Lessee in writing of Lessor's estimate of the Monthly Rent for the applicable extension period, based on the provisions of Paragraph 53.2 above. Within thirty (30) days after receipt of such notice from Lessor, Lessee shall have the right either to (i) accept Lessor's statement of Monthly Rent as the Monthly Rent for the applicable extension period; or (ii) elect to arbitrate Lessor's estimate of Fair Market Rent, such arbitration to be conducted pursuant to the provisions hereof. Failure on the part of Lessee to require arbitration of Fair Market Rent within such 30-day period shall constitute acceptance of the Monthly Rent for the applicable extension period as calculated by Lessor. If Lessee elects arbitration, the arbitration shall be concluded within 90 days after the date of Lessee's election, subject to extension for an additional 30-day period if a third arbitrator is required and does not act in a timely manner. To the extent that arbitration has not been completed prior to the expiration of any preceding period for which Monthly Rent has been determined, Lessee shall pay Monthly Rent at the rate calculated by Lessor, with the potential for an adjustment to be made once Fair Market Rent is ultimately determined by arbitration.

53.4 In the event of arbitration, the judgment or the award rendered in any such arbitration may be entered in any court having jurisdiction and shall be final and binding between the parties. The arbitration shall be conducted and determined in the County of Santa Clara in accordance with the then prevailing rules of the American Arbitration Association or its successor for arbitration of commercial disputes except to the extent that the procedures mandated by such rules shall be modified as follows:

(a) Lessee shall make demand for arbitration in writing within thirty (30) days after service of Lessor's determination of Fair Market Rent given under Paragraph 53.3 above, specifying therein the name and address of the person to act as the arbitrator on its behalf. The arbitrator shall be qualified as a real estate appraiser familiar with the Fair Market Rent of similar industrial, research and development, or office space in the Santa Clara area who would qualify as an expert witness over objection to give opinion testimony addressed to the issue in a court of competent jurisdiction. Failure on the part of Lessee to make a proper demand in a timely manner for such arbitration shall constitute a waiver of the right thereto. Within fifteen (15) days after the service of the demand for arbitration, Lessor shall give notice to Lessee, specifying the name and address of the person designated by Lessor to act as arbitrator on its behalf who shall be similarly qualified. If Lessor fails to notify Lessee of the appointment of its arbitrator, within or by the time above specified, then the arbitrator appointed by Lessee shall be the arbitrator to determine the issue.

(b) In the event that two arbitrators are chosen pursuant to Paragraph 53.4(a) above, the arbitrators so chosen shall, within fifteen (15) days after the second arbitrator is appointed determine the Fair Market Rent. If the two arbitrators shall be unable to agree upon a determination of Fair Market Rent within such 15-day period, they, themselves, shall appoint a third arbitrator, who shall be a competent and impartial person with qualifications similar to those required of the first two arbitrators pursuant to Paragraph 53.4 (a). In the event they are unable to agree upon such appointment within seven days after expiration of such 15-day period, the third arbitrator shall be selected by the parties themselves, if they can agree thereon, within a further period of fifteen (15) days. If the parties do not so agree, then either party, on behalf of both, may request appointment of such a qualified person by the then Presiding Judge of the California Superior Court having jurisdiction over the County of Santa Clara, acting in his or her private and not in his or her official capacity, acting in his private and not in his official capacity, and the other party shall not raise any question as to such Judge's full power and jurisdiction to entertain the application for and make the appointment. The three arbitrators shall decide the dispute if it has not previously been resolved by following the procedure set forth below.

(c) Where an issue cannot be resolved by agreement between the two arbitrators selected by Lessor and Lessee or settlement between the parties during the course of arbitration, the issue shall be resolved by the three arbitrators within 15 days of the appointment of the third arbitrator in accordance with the following procedure. The arbitrator selected by each of the parties shall state in writing his determination of the Fair Market Rent supported by the reasons therefor with counterpart copies to each party. The arbitrators shall arrange for a simultaneous exchange of such proposed resolutions. The role of the third arbitrator shall be to select which of the two proposed resolutions most closely approximates his determination of Fair Market Rent. The third arbitrator shall have no right to propose a middle ground or any modification of either of the two proposed resolutions. The resolution he chooses as most closely approximating his determination shall constitute the decision of the arbitrators and be final and binding upon the parties.

(d) In the event of a failure, refusal or inability of any arbitrator to act, his successor shall be appointed by him, but in the case of the third arbitrator, his successor shall be appointed in the same manner as provided for appointment of the third arbitrator. The arbitrators shall decide the issue within fifteen (15) days after the appointment of the third arbitrator. Any decision in which the arbitrator appointed by Lessor and the arbitrator appointed by Lessee concur shall be binding and conclusive upon the parties. Each party shall pay the fee and expenses of its respective arbitrator and both shall share the fee and expenses of the third arbitrator, if any, and the attorneys' fees and expenses of counsel for the respective parties and of witnesses shall be paid by the respective party engaging such counsel or calling such witnesses.

(e) The arbitrators shall have the right to consult experts and competent authorities to obtain factual information or evidence pertaining to a determination of Fair Market Rent, but any such consultation shall be made in the presence of both parties with full right on their part to cross-examine. The arbitrators shall render their decision and award in writing with counterpart copies to each party. The arbitrators shall have no power to modify the provisions of this Lease.

54. SIGNAGE. Tenant may, at Tenant's sole cost and expense, have building and monument signage, subject to Landlord's approval, which shall not be unreasonably withheld, and approval by the City of Santa Clara.

55. CALIFORNIA PUBLIC RESOURCES CODE § 25402.10. If Lessee (or any party claiming by, through or under Lessee) pays directly to the provider for any energy consumed at the Building, Lessee, promptly upon request, shall deliver to Lessor (or, at Lessor's option, execute and deliver to Lessor an instrument enabling Lessor to obtain from such provider) any data about such consumption that Lessor, in its reasonable judgment, is required to disclose to a prospective buyer, tenant or mortgage lender under California Public Resources Code § 25402.10 or any similar law.

56. WIRING AND CABLING. At any time prior to, or within fifteen (15) days after the expiration or sooner termination of this Lease, Lessor may elect by written notice to Lessee to: (i) retain any or all electrical or telecommunications wiring, cables, risers, mounts, and/or similar installations installed by Lessee (the "Telecommunications Wiring"); or (ii) remove any or all such Telecommunications Wiring and restore the Premises or other areas within the Building Project to their condition prior to the installation of the Telecommunications Wiring (the "Wiring Restoration Work"); and (x) that Lessor shall perform such Wiring Restoration Work at Lessee's sole cost and expense, using available Security Deposit funds (or, if insufficient, Lessee shall pay all costs therefor within ten (10) days after Lessor's written demand); or (y) require Lessee to perform the Wiring Restoration Work at Lessee's sole cost and expense. The provisions of this Article 56 shall survive the expiration or sooner termination of this Lease.

57. LESSOR'S CONDITION SUBSEQUENT. This Lease is specifically conditional upon Lessor's obtaining a fully executed Lease signed by Lessee and returned to Lessor on or before Friday, November 20, 2015. In the event that Lessee fails to execute and return a fully signed Lease to Lessor on or before November 20, 2015, this Lease shall automatically become null and void whereupon the parties shall have no further obligation hereunder.

NOW, THEREFORE, the parties hereto have executed this Addendum as of the date first above written.

AGREED AND ACCEPTED

Lessor: Gahrahmat Family Limited Partnership II, LP

By: _____ **Dated:** 10-20-15

Lessee: City of Santa Clara dba Silicon Valley Power

By: _____ **Dated:** 10/27/15

ATTEST:

for Bernadette DeLouise
City Clerk

CONSULT YOUR PROFESSIONAL ADVISORS: THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY, TAX ACCOUNTANT, GEOLOGIST OR OTHER PROFESSIONAL ADVISOR FOR APPROVAL FROM THE STANDPOINT OF PROTECTION OF YOUR INTERESTS AND RIGHTS. NO REPRESENTATION OR RECOMMENDATIONS ARE MADE BY NAI BT COMMERCIAL, ITS AGENTS OR EMPLOYEES AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS DOCUMENT OR THE TRANSACTION RELATING THERETO. ADDRESS THESE QUESTIONS TO YOUR ATTORNEY AND/OR OTHER PROFESSIONAL ADVISORS.

CUSHMAN & WAKEFIELD

300 Santana Row, Fifth Floor
San Jose, CA 95128
Tel +1 408 615 3400
Fax +1 408 615 3444
cushmanwakefield.com

CalBRE License #01880493

Attachment A
AGENCY CONFIRMATION
(per California Civil Code Section 2079.17)

Property Address: 881 Martin Avenue, Santa Clara, California

The following agency relationship(s) is/are hereby confirmed for this transaction:

Cushman & Wakefield is the agent of (check one):

☐ the seller / lessor exclusively; or

☒ both the lessee and the lessor.

Acknowledged:

Seller / Lessor: _____ **Date:** 10-20-15
Gahrahmat Family Limited
Partnership II, LP

Buyer / Lessee: _____ **Date:** 10/27/15
City of Santa Clara dba Silicon
Valley Power

ATTEST:
City Clerk
for

Dual Agent: Cushman & Wakefield **BRE Lic. No.:** 01880493

By: _____ **BRE Lic. No.** 01401887
Dave Geisberger
Date: 10/9/15

By: _____ **BRE Lic. No.** 00848988
Kalil Jenab
Date: 10/9/15

CUSHMAN & WAKEFIELD

300 Santana Row, Fifth Floor
San Jose, CA 95128
Tel +1 408 615 3400
Fax +1 408 615 3444
cushmanwakefield.com

CalBRE License #01880493

Attachment B

REAL PROPERTY DISCLOSURES

CUSHMAN & WAKEFIELD ("Broker") provides this Real Property Disclosure Notice ("Notice") in reference to a proposed transaction by and between **Gahrahmat Family Limited Partnership II, LP ("Lessor")** and **City of Santa Clara dba Silicon Valley Power ("Lessee")** regarding real property identified as: **881 Martin Avenue, Santa Clara, California** (the "**Property**").

Hazardous Materials
Comprehensive federal, state and local laws, regulations and ordinances ("Laws") control the disclosure, use, storage, handling, removal and disposal of Hazardous Materials. The term "Hazardous Materials" includes, but is not limited to, underground storage tanks, petroleum, paint, solvents, lead, cyanide, DDT, inks, acids, pesticides, ammonium, asbestos, heavy metals, PCBs, and any contaminated, hazardous or toxic substance. Hazardous Materials may be present at the Property due to current or prior use, or the use of adjacent properties. Except as expressly stated in this paragraph, Broker and its agents have not made and will not make any analysis, investigation, representation or warranty with respect to any Hazardous Materials matters, including without limitation the presence or absence of Hazardous Materials on or impacting the Property. Broker recommends that you consult your advisors with respect to all Hazardous Materials matters.

Americans with Disabilities Act
The Americans with Disabilities Act ("ADA") requires, among other things, that owners of "public accommodations" remove barriers to access by disabled persons, and provide auxiliary aids and services for hearing, vision or speech impaired persons. Any change of use or alterations of the Property may trigger such requirements, even if existing use is in compliance with the ADA. Except as expressly stated in this paragraph, Broker and its agents have not made and will not make any analysis, investigation, representation or warranty with respect to any ADA matters. Broker recommends that you consult your advisors with respect to all ADA matters.

Natural Hazards – Sale Only
Various Laws require a seller and its broker to disclose the existence of certain natural hazards to a buyer, including whether the property is located in an earthquake fault zone, a seismic hazard zone, a special flood hazard area, an area of potential flooding, a fire hazard severity zone, or a wildland fire area. If Broker represents the Seller, Broker will provide Buyer with a report prepared by an independent third party regarding such natural hazards during the due diligence period under the purchase contract.

Commercial Property Owner's Guide to Earthquake Safety – Sale Only
The seller of a precast concrete or reinforced or unreinforced masonry building with wood frame floors or roof which was built before January 1, 1975 must deliver to the buyer a copy of "The Commercial Property Owner's Guide to Earthquake Safety" published by the California Seismic Safety Commission. Buyer acknowledges that Seller and/or Broker have disclosed whether such requirement applies to this Property, and if so, that Broker has delivered to Buyer a copy of that Guide.

Water Heater Bracing Disclosure and Certification – Sale Only
Seller hereby certifies that all water heaters in or on the Property are braced, anchored or strapped to resist falling or horizontal displacement due to earthquake motions as required by state and applicable local codes.

Lead Based Paint Pamphlet – Sale or Lease of Residential Property
The seller or lessor of any residential property built before 1978 must provide the buyer or lessee with a lead hazard information pamphlet, disclose the presence of any known lead-based paint and provide a statement to be signed by the buyer or lessee that the buyer or lessee has read the warning statement, has received the pamphlet, and has a 10-day opportunity to inspect before becoming obligated under the contract.

Broker Disclaimer
Broker has not made and will not make any analysis, investigation, representation or warranty regarding (a) the zoning of the Property or the legality of any present or future use of the Property; (b) the compliance of the Property with any Law; (c) the physical condition of the Property, including without limitation the structural, mechanical, or soils conditions of the Property or the presence or absence of wood-destroying organisms, mold, allergens, fungi, spores, pollens, insects or pests; (d) the financial condition or prospects of the Property or any of its tenants, including without limitation the accuracy or completeness of income and expense information and projections, or the intent or ability of any tenant to continue its tenancy; (d) the size, measurements or boundaries of the Property; or (e) pending or future action by any government or other entity or person that might impact the Property. Broker recommends that you consult your advisors with respect to each of these matters.

Legal, Tax and Accounting Matters
Broker and its agents are not qualified to provide legal, tax or accounting advice, and have not made and will not make any analysis, investigation, representation or warranty regarding any legal, tax or accounting matters. Broker recommends that you consult your advisors with respect to all legal, tax and accounting matters.

Broker Multiple Representation
Broker and its agents have a wide variety of clients, and may represent other buyers or lessees interested in the Property, or may represent other sellers or lessors with property similar to the Property. Buyer or Lessee understands and agrees that Broker and its agents may present multiple offers on the Property to the Seller or Lessor. Seller or Lessor understands and agrees that Broker and its agents may present multiple properties to the Buyer or Lessee.

Non-Binding Proposal / Letter of Intent
If this Disclosure Notice accompanies a proposal or Letter of Intent then it is a statement of the terms upon which the Buyer and Seller or Lessor and Lessee (the "Parties") may be interested in pursuing further negotiations concerning the Property, and is not intended to be a complete or binding agreement between the Parties. No binding agreements shall be created between the Parties until a full and final written agreement containing all material terms of the transaction is prepared, reviewed and approved by the Parties and their respective counsel, if any, and mutually executed and delivered.

Each Party acknowledges that it has incurred, and will incur, costs and expenses in connection with the transaction contemplated hereby, including but not limited to the costs of investigation and assessment of the economic and other merits of the proposal, as well as legal expenses in connection with the preparation of a final and binding agreement, all of which costs are incurred at such Party's sole cost and risk, and not in reliance upon any act or representations of the other Party or Broker. Either Party may terminate the negotiations at any time for any reason, or for no reason, without liability or obligation whatsoever.

FIRST AMENDMENT TO LEASE

This First Amendment to Lease ("**Amendment**") is dated as of April 29, 2020, for reference purposes only, and is entered into by and between Gahrahmat Family Limited Partnership I, LP, a California limited partnership ("**Landlord**", as successor-in-interest to Gahrahmat Family Limited Partnership II, LP), and City of Santa Clara dba Silicon Valley Power ("**Tenant**"), with reference to the following facts and objectives:

RECITALS

A. WHEREAS, Landlord and Tenant entered into that certain AIR Commercial Real Estate Association Standard Industrial/Commercial Multi-Tenant Lease dated October 9, 2015 (the "**Lease**") for premises consisting of approximately 32,494 rentable square feet commonly known as 881 Martin Avenue, Santa Clara, California ("**Premises**");

B. WHEREAS, the current Term of the Lease expires on October 31, 2020; and

C. WHEREAS, the parties have agreed to extend the Term of the Lease through October 31, 2025, pursuant to the terms and conditions set forth below.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. Landlord and Tenant agree that the above recitals are true and correct and are hereby incorporated herein as though set forth in full.

2. Term Extension. The Term of the Lease is hereby extended through and including October 31, 2025 (the "**Extended Term**").

3. Monthly Base Rent. Landlord and Tenant agree that the monthly Base Rent payable during the period of November 1, 2020 through and including October 31, 2025 shall be as follows:

Period	Monthly Base Rent
November 1, 2020 – October 31, 2021	$53,615.10 ($1.65/SF (NNN))
November 1, 2021 – October 31, 2022	$55,223.55 ($1.70/SF (NNN))
November 1, 2022 – October 31, 2023	$56,880.26 ($1.75/SF (NNN))
November 1, 2023 – October 31, 2024	$58,586.67 ($1.80/SF (NNN))
November 1, 2024 – October 31, 2025	$60,344.27 ($1.86/SF (NNN))

4. Condition of Premises. Tenant acknowledges and agrees (i) Tenant is familiar with the condition of the Premises, (ii) Tenant accepts the Premises in their existing condition "AS IS", and (iii) Landlord shall not be obligated to provide or pay for any improvement, remodeling or refurbishment work or services related to the improvement, remodeling or refurbishment of the Premises.

5. Options. Tenant acknowledge that there are no options to further extend or renew the term of the Lease, and any such options are hereby terminated.

6. Brokers. Tenant warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Amendment whose commission shall be payable by Landlord. If Tenant has dealt with any person, real estate broker or agent with respect to this Amendment, Tenant shall be solely responsible for the payment of any fee due to said person or firm, and Tenant shall indemnify, defend and hold Landlord free and harmless against any claims, judgments, damages, costs, expenses, and liabilities with respect thereto, including attorneys' fees and costs.

7. **Ratification of Lease.** Tenant acknowledges that the Lease is in full force and effect, there are currently no defaults nor claims existing under the Lease, and there are no amendments or addenda to the Lease Agreement other than those set forth herein.

8. **Effect of Amendment.** Except as modified herein, the terms and conditions of the Lease shall remain unmodified and continue in full force and effect. In the event of any conflict between the terms and conditions of the Lease and this Amendment, the terms and conditions of this Amendment shall prevail.

9. **Definitions.** Unless otherwise defined in this Amendment, all terms not defined in this Amendment shall have the meanings assigned to such terms in the Lease.

10. **Authority.** Subject to the assignment and subletting provisions of the Lease, this Amendment shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns. Each party hereto and the persons signing below warrant that the person signing below on such party's behalf is authorized to do so and to bind such party to the terms of this Amendment.

11. **Miscellaneous.**

a. **Counterparts/Electronic Signatures.** This Amendment may be signed in two or more counterparts. When at least one such counterpart has been signed by each party, this Amendment shall be deemed to have been fully executed and each counterpart shall be deemed to be an original and all counterparts taken together shall be one and the same Amendment. This Amendment may be signed by faxed, e-mailed or other electronic signatures (e.g., Docusign) and faxed, e-mail, or such other electronic signatures hereon shall be deemed originals for all purposes.

b. **Incorporation/ Integration.** This Amendment is incorporated into the Lease by reference and all terms and conditions of the Lease (except as expressly modified herein) are incorporated into this Amendment by reference. This Amendment and the Lease comprises the entire agreement between the parties.

c. **Neutral Interpretation.** This Amendment shall be interpreted neutrally between the parties regardless of which party drafted or caused to be drafted this Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date and year first above written.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

LANDLORD:

Gahrahmat Family Limited Partnership I, LP,
a California limited partnership

By: Gahrahmat Properties I, LLC,
a California limited liability company
Its: General Partner

By: _____
Mahmoud Gahrahmat
Its: Managing Member

Dated: _____

TENANT:

City of Santa Clara dba Silicon Valley Power

By: _____
Name: _____
Its: City Manager

Dated: _____

By: _____
Name: _____
Its: City Attorney

Dated: _____

20-727 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on Contracts for Silicon Valley Power [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure] as follows, authorize the City Manager to execute:

1. Amendment No. 1 to the Agreement for the Performance of Services with Eagle Security Services / Cerny's Locksmith;
2. Agreement for Services with Montrose Air Quality Services, LLC in an amount not to exceed $415,705 for the period of September 1, 2020 through December 31, 2025;
3. Amendment No. 1 to the Agreement for Services with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories extending the term through September 30, 2022;
4. Amendment No. 1 to Contract No. 2004D with Daleo, Inc. authorizing staff to issue call orders through July 31, 2021;
5. Amendment No. 1 to the Agreement for Services with Document Management Technologies, LLC in an amount not to exceed $230,000 for the period September 5, 2020 through September 5, 2022; and,
6. Add or delete services consistent with the scope of the agreements, and allow future rate adjustments subject to request and justification by contractor, approval by the City, and the appropriation of funds.

BACKGROUND

To meet its mission and goals, City of Santa Clara's Electric Department, Silicon Valley Power (SVP), requires specialized contractors for a variety of services including:

- Physical security including locksmith, video cameras, and card key access entry
- Power Plant Source and RATA Testing
- Materials Testing and Special Construction Inspections
- Electric Utility Substructure and Aerial Fiber Optic Cable Construction
- Document Management

DISCUSSION

Maintenance of Physical Security Assets

In 2015, the City entered into an agreement with Eagle Security Service/Cerny's Locksmith (Eagle). Eagle provides services associated with security systems for SVP's facilities including locksmith services, card access, and external video cameras. The services in this agreement included installation of video camera and card access system including hardware, installation, and necessary cabling to commission the system. Recent activity needs under this contract include equipment replacement or upgrade to address changing regulatory security requirements and to minimize employee contact due to the pandemic. As a result, staff recommends increasing maximum compensation by $85,000, from $135,000 to $220,00 to address new physical security needs such

as social distance protocols and work associated with access to new substations. Rates have increased four percent per year during the term of the agreement. Staff will initiate a Request for Proposals (RFP) for these services in fall of this year.

Power Plant Source and RATA Testing

To meet required Environmental Protection Agency (EPA), requirements, SVP is required to provide regular emissions source testing and annual Continuous Emission Monitoring System (CEMS) Relative Accuracy Test Audit (RATA) testing at the three power plants located in Santa Clara. Annual testing is required for the Donald Von Raesfeld Power Plant and the Cogeneration Power Plant and biennial testing is required at the Gianera Power Plant. In 2019, the City issued an RFP for these services and, five (5) firms submitted responsive proposals. A team of evaluators reviewed the responses and completed a scoring process based on experience, technical approach, and cost. Based on this process, staff recommended award of contract to Montrose Air Quality Services, LLC. (Montrose) in an amount not to exceed $415,705 for the period of September 1, 2020 through December 31, 2026.

Materials Testing and Special Construction Inspections

On November 21st, 2017, Council approved a services agreement for Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories (Consolidated Engineering) to provide materials testing and special construction inspections for Silicon Valley Power's capital construction program. SVP's capital program includes construction of electric transmission, substation and distribution facilities to provide services to existing customers while meeting future load growth needs. This contact was awarded through a competitive RFP process. Consolidated Engineering is a professional firm that specializes in performing materials testing and special construction inspections required by the City's Building Division to be performed during certain stages of construction. Staff recommends the extension of this agreement to September 30, 2022 to support substation construction that is already in progress.

Electric Utility Substructure and Aerial Fiber Optic Cable Construction

On July 18, 2017, after completion of a competitive Public Works bid process, Council authorized a construction agreement with Daleo, Inc (Daleo) for the Electric Utility Substructure and Aerial Fiber Optic Cable Master projects. Daleo's services include supporting electric utility substructure and aerial fiber optic projects to construct extensions, capital repairs and maintenance to SVP's operations as well as to maintain and extend dark fiber infrastructure to customers. SVP provides dark fiber services to customers including large businesses, fiber carriers, data centers, and the Santa Clara Unified School District promoting economic development and technology services to the community. The agreement with Daleo was anticipated to have cost of up to $2 million per year for three years. Over $4 million is remaining of this contract balance as development and capital programs have been delayed. Staff recommends extending this agreement one year and authorizing staff to issue call orders under this specification through July 31, 2021. During this time staff will complete a completive bid process. After three years using fixed rates, the contractor has justified a 15% - 19% rate increase which staff has determined is consistent with increases in prevailing wage rates and increases in construction costs for this area.

Document Management

On September 5, 2017, the City entered into a three-year Agreement for the Performance of Services with Document Management Technologies, LLC to provide scanning, document conversion, PDF optimization and cataloging of the Electric Departments contracts into a database that supports SVP

staff in maintaining hundreds of agreements associated with the power utility. The agreement in 2017 was a sole source agreement to support a custom database developed by the vendor in 2008. Staff recommends extending the agreement through September 5, 2022 and increasing maximum compensation by $100,000 from $130,000 to $230,000. During this time, SVP staff will continue to coordinate with the City Clerk's office on the implementation of Laserfiche that is anticipated to duplicate the functionality of this agreement. Some of the additional funding is to address potential additional needs to support the Laserfiche transition. In the event that the Laserfiche transition is completed before end of the new contract term, the agreement may be terminated with a thirty-day notice.

ENVIRONMENTAL REVIEW

The actions being considered do not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b)(4) in that it is a fiscal activity that does not involve commitment to a specific project which may result in potential significant impact on the environment.

FISCAL IMPACT

The cost of these proposed agreements are as follows:

Maintenance of Security Assets (Eagle): Staff recommends increasing this contract from $135,000 to $220,000 for a five-year period ending December 23, 2020.

Power Plant Source and Rata Testing (Montrose): Staff recommends authorizing the City manager to execute an agreement with Montrose Air Quality Services, LLC. in an amount not to exceed $415,705 for the period of September 1, 2020 through December 31, 2026.

Materials Testing and Special Inspections (Consolidated Engineering): Staff recommends extending the term of this agreement from September 30, 2020 to September 30, 2022 with no change to the contract value of $250,000.

Electric Utility Substructure and Aerial Fiber Optic Cable Construction (Daleo): Staff recommends extending the term of this agreement authorizing call orders to be issued through July 31, 2021 with no change to the contract value of $6,000,000.

Document Management (Document Management Technologies, LLC): Staff recommends increasing the not to exceed amount from $130,000 to $230,000 and extending the term from September 5, 2020 to September 5, 2022.

Sufficient funds are available in the Electric Department operating and Capital Improvement Program (CIP) budget for FY 2020/2021 for each respective agreement, listed as follows:

- Eagle - Utility Operations - SVP Systems Support program
- Montrose - Utility Operations - Generation program
- Consolidated Engineering - Serra Substation Re-build and Transmission System Reinforcements CIP projects
- Daleo - Fiber Development, Design, and Expansion, and New Business Estimate Work CIP projects, and Utility Operations - Transmission and Distribution program

- Document Management - Business Services - Risk Management program

Funds required for these agreements in future years will be included in proposed budgets for those corresponding years.

COORDINATION

This report has been coordinated with the Finance Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

1. Authorize the City Manager to execute Amendment No. 1 to the Agreement for the Performance of Services with Eagle Security Services / Cerny's Locksmith;
2. Authorize the City Manager to execute an Agreement for Services with Montrose Air Quality Services, LLC in an amount not to exceed $415,705 for the period of September 1, 2020 through December 31, 2025;
3. Authorize the City Manager to execute Amendment No. 1 to the Agreement for Services with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories extending the term through September 30, 2022;
4. Authorize the City Manager to execute Amendment No. 1 to Contract No. 2004D with Daleo, Inc. authorizing staff to issue call orders through July 31, 2021;
5. Authorize the City Manager to execute Amendment No. 1 to the Agreement for Services with Document Management Technologies, LLC in an amount not to exceed $230,000 for the period September 5, 2020 through September 5, 2022; and,
6. Authorize the City Manager to add or delete services consistent with the scope of the agreements, and allow future rate adjustments subject to request and justification by contractor, approval by the City, and the appropriation of funds.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Proposed Amendment No. 1 with Eagle Security / Cerny's Locksmith
2. Original Agreement with Eagle Security/Cerny's Locksmith
3. Proposed Agreement with Montrose Air Quality Services, LLC
4. Proposed Amendment No. 1 with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories
5. Original Agreement with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories
6. Proposed Amendment No. 1 with Daleo, Inc.
7. Original Contract with Daleo, Inc.
8. Proposed Amendment No. 1 with Document Management Technologies, LLC

9. Original Agreement with Document Management Technologies, LLC

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Ebix Insurance No. S200000601

AMENDMENT NO. 1
TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
EAGLE SECURITY/CERNY'S LOCKSMITH

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Eagle Security Service/Cerny's Locksmith, a California corporation, with its principal place of business located at 26203 Production Avenue, #5, Hayward, California 94545 ("Contractor"). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and between the City of Santa Clara, California and Eagle Security Service/Cerny's Locksmith dated December 24, 2015 (Agreement);

B. The Agreement and its amendments are collectively referred to herein as the "Agreement as Amended"; and

C. The Parties entered into the Agreement as Amended for the purpose of having Contractor provide installation and maintenance services for security systems installed at Silicon Valley Power (SVP) facilities and the Parties now wish to amend the Agreement as Amended to extend the term and not to exceed value of the Agreement.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

1. Exhibit A of the Agreement, entitled "Scope of Services", is hereby amended to read as shown in First Revised Exhibit A, attached and incorporated into this Amendment No. 1.

2. Exhibit B of the Agreement, entitled "Fee Schedule", is hereby amended to read as shown in First Revised Exhibit B, attached and incorporated into this Amendment No. 1.

3. Exhibit G of the Agreement, entitled “Labor Compliance Addendum”, is hereby attached and incorporated into this Amendment No. 1.

4. Except as set forth herein, all other terms and conditions of the Agreement as Amended shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form: Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“CITY”

EAGLE SECURITY/CERNY’S LOCKSMITH
a California corporation

Dated: _____
By (Signature): _____
Name: ZACKERY MUECK
Title: President
Principal Place of Business Address: 26203 Production Ave. #5
Email Address: Hayward, CA 94545
Telephone: (800) 898-5412
Fax: (510) 783-4182

“CONTRACTOR”

FIRST REVISED EXHIBIT A
SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are more fully described below

1) Provide installation of Card Access as well as labor for external Point of Entry Video Camera within the Electric Department facilities as further outlined below:

    a) Labor for Card Access door to include all mounting of door hardware, connecting all wiring, configuration of the Controller Panel for door, verifying System connection to Controller, System Configuration and testing for full operation of door for Card Access control.
    b) Labor to add external POE Video Camera to include all mounting of Camera hardware on a flat wall of either stucco, sheet metal or wood, terminating Ethernet connectors and connecting all wiring, configuration of the Camera to meet User specs, verifying System connection to Camera, System Configuration, including license entry and verification and testing for full operation and recording of the new Camera.

2) Provide additional related services as requested by City and approved in writing (e-mail acceptable) including, but not limited to:

    a) Installation and maintenance of additional card access door functionality or points of access

    b) Installation and maintenance of additional POE video systems or cameras

    c) Maintenance of all systems installed by contractor as requested by SVP

FIRST REVISED EXHIBIT B
FEE SCHEDULE

Contractor shall provide services at the rates and fees set forth in the attached SYSTEM PROPOSAL TOTALS dated 8/10/2020 and incorporated into this Exhibit B:

In no event shall the amount billed to City by Contractor for services under this Agreement exceed two hundred twenty thousand dollars ($220,000) during the Agreement term, subject to budget appropriations.

EAGLE Security Service

Security Hardware Sales & Installation
Since 1916
Access Control · Alarm · Locksmith
Video Surveillance · Data Communication

SYSTEM PROPOSAL TOTALS

To: Diana Shiles
Silicon Valley Power
From: Zackery Mueck
Date: 08/10/2020

EST# C08-20-

REVISION #1

Subject: Silicon Valley Power Labor Quote

We propose to furnish and install equipment listed below:

Hourly rates: (2 hour minimum)

Regular Rate:	$ 155.00
Time and a Half:	$ 232.50
Double Time:	$ 310.00
Senior Technician	$ 325.00
Consulting	$ 379.00

Weekends have a 4 hour minimum at time and a half and Holidays have an 8 hour minimum at Double Time.

ALARM LIC.#ACO 3266 CAL.STATE LIC.#586746 C-10

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

All work to be completed in a professional manner according to standard practices. Any alterations or deviation from above specifications involving extra costs will be executed only upon written orders, and will become extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond control. Owner to carry necessary insurance.

RESPONSIBILITY: The following responsibilities will be assumed by us, unless otherwise indicated:

1 All work to be done during normal working hours.
 All work to be listed with attached description pages.

RESPECTFULLY SUBMITTED BY: Zackery Mueck

EXHIBIT G
LABOR COMPLIANCE ADDENDUM

Agreement Name:	
CONTRACTOR (Supplier) Name and Address	

This Agreement is subject to the requirements of California Labor Code section 1720 et seq. requiring the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements.

A. PREVAILING WAGE REQUIREMENTS

1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at www.dir.ca.gov, which shall be available to any interested party upon request. Contractor is also required to have a copy of the applicable wage determination posted and/or available at each job site.

2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.

3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov.

4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.

5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, Contractor agrees to present to City, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term “certified payroll” shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional

documentation requested by the City or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.

6. In addition to submitting the certified payrolls and related documentation to City, Contractor and all subcontractors shall be required to submit certified payroll records and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and/or final payment.

7. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

8. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than $15,000 for maintenance work or less than $25,000 for construction alternation, demolition or repair work, registration is not required.

9. All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a "public works contractor". Those who fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.

10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney's fee relating to such fine.

11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

B. AUDIT RIGHTS

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

C. ENFORCEMENT

1. City shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., City may continue to hold sufficient funds to cover estimated wages and penalties under the Agreement.

2. Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.

3. The City is not obligated to make any payment due to Contractor until Contractor has performed all of its obligations under these provisions. This provision means that City can withhold all or part of a payment to Contractor until all required documentation is submitted. Any payment by the City despite Contractor's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of this Addendum.

City or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to $200 per day per worker for each wage violation identified; $100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and $25 per day per worker for any overtime violation.

AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA, AND EAGLE SECURITY SERVICE/CERNY'S LOCKSMITH

PREAMBLE

This agreement for the performance of services ("Agreement") is by and between Eagle Security Service/Cerny's Locksmith, a California corporation, with its principal place of business located at 26203 Production Avenue, #5, Hayward, California 94545 ("Contractor"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. City desires to secure professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services"; and

B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT PROVISIONS

1. EMPLOYMENT OF CONTRACTOR.

City hereby employs Contractor to perform services set forth in this Agreement. To accomplish that end, City may assign a Project Manager to personally direct the Services to be provided by Contractor and will notify Contractor in writing of City's choice. City shall pay for all such materials and services provided which are consistent with the terms of this Agreement.

2. SERVICES TO BE PROVIDED.

Except as specified in this Agreement, Contractor shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as "Services") to satisfactorily complete the work required by City at his/her own risk and expense. Services to be provided to City are more fully described in Exhibit A entitled "SCOPE OF SERVICES." All of the exhibits referenced in this Agreement are attached and are incorporated by this reference.

3. COMMENCEMENT AND COMPLETION OF SERVICES.

A. Contractor shall begin providing the services under the requirements of this Agreement upon receipt of written Notice to Proceed from City. Such notice shall be deemed to have occurred three (3) calendar days after it has been deposited in the regular United States mail. Contractor shall complete the Services within the time limits set forth in the Scope of Services or as mutually determined in writing by the Parties.

B. When City determines that Contractor has satisfactorily completed the Services, City shall give Contractor written Notice of Final Acceptance. Upon receipt of such notice, Contractor shall not incur any further costs under this Agreement. Contractor may request this determination of completion be made when, in its opinion, the Services have been satisfactorily completed. If so requested by the contractor, City shall make this determination within fourteen (14) days of its receipt of such request.

4. QUALIFICATIONS OF CONTRACTOR - STANDARD OF WORKMANSHIP.

Contractor represents and maintains that it has the necessary expertise in the professional calling necessary to perform services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

The plans, designs, specifications, estimates, calculations, reports and other documents furnished under Exhibit A shall be of a quality acceptable to City. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well organized, that is technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by City for similar projects.

5. TERM OF AGREEMENT.

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate five (5) years from the Effective Date.

6. MONITORING OF SERVICES.

City may monitor the Services performed under this Agreement to determine whether Contractor's operation conforms to City policy and to the terms of this Agreement. City may also monitor the Services to be performed to determine whether financial operations are conducted in accord with applicable City, county, state, and federal requirements. If any action of Contractor constitutes a breach, City may terminate this Agreement pursuant to the provisions described herein.

7. WARRANTY.

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect, and shall conform to the specifications, requirements, and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate, or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

8. PERFORMANCE OF SERVICES.

Contractor shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by City. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it. Contractor will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

9. BUSINESS TAX LICENSE REQUIRED.

Contractor must comply with Santa Clara City Code section 3.40.060, as that section may be amended from time to time or renumbered, which requires that any person who transacts or carries on any business in the City of Santa Clara pay business license tax to the City. A business tax certificate may be obtained by completing the Business Tax Affidavit Form and paying the applicable fee at the Santa Clara City Hall Municipal Services Division.

10. RESPONSIBILITY OF CONTRACTOR.

Contractor shall be responsible for the professional quality, technical accuracy and coordination of the Services furnished by it under this Agreement. Neither City's review, acceptance, nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and Contractor shall be and remain liable to City in accordance with applicable law for all damages to City caused by Contractor negligent performance of any of the Services furnished under this Agreement.

Any acceptance by City of plans, specifications, construction contract documents, reports, diagrams, maps and other material prepared by Contractor shall not in any respect absolve Contractor form the responsibility Contractor has in accordance with customary standards of good professional practice in compliance with applicable federal, state, county, and/or municipal laws, ordinances, regulations, rules and orders.

11. COMPENSATION AND PAYMENT.

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and services rendered by Contractor at the rate per hour for labor and cost per unit for materials as outlined in Exhibit B, entitled "SCHEDULE OF FEES."

Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month, subject to verification by City. City will pay Contractor within thirty (30) days of City's receipt of invoice.

12. 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 thirty (30) calendar days after a Party receives such notice. After either Party terminates the Agreement, Contractor shall discontinue further services as of the effective date of termination, and City shall pay Contractor for all Services satisfactorily performed up to such date.

13. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

14. NO THIRD PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

15. INDEPENDENT CONTRACTOR.

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights, however, to manage its employees in their performance of Services under this Agreement. Contractor is not authorized to bind City to any contracts or other obligations.

16. NO PLEDGING OF CITY'S CREDIT.

Under no circumstances shall Contractor have the authority or power to pledge the credit of City or incur any obligation in the name of City. Contractor shall save and hold harmless the City, its City Council, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of City's credit by Contractor under this Agreement.

17. CONFIDENTIALITY OF MATERIAL.

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance

of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

18. USE OF CITY NAME OR EMBLEM.

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

19. OWNERSHIP OF MATERIAL.

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

20. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR.

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

21. CORRECTION OF SERVICES.

Contractor agrees to correct any incomplete, inaccurate or defective Services at no further costs to City, when such defects are due to the negligence, errors or omissions of Contractor.

22. FAIR EMPLOYMENT.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

23. HOLD HARMLESS/INDEMNIFICATION.

To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which City shall become liable arising from Contractor's negligent, reckless or wrongful acts, errors, or omissions with respect to or in any way connected with the Services performed by Contractor pursuant to this Agreement.

24. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City insurance policies with respect to employees and vehicles assigned to the Performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in Exhibit C.

25. AMENDMENTS.

This Agreement may be amended only with the written consent of both Parties.

26. INTEGRATED DOCUMENT.

This Agreement represents the entire agreement between City and Contractor. No other understanding, agreements, conversations, or otherwise, with any representative of City 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 City.

27. SEVERABILITY CLAUSE.

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.

28. WAIVER.

Contractor agrees that waiver by City 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.

29. NOTICES.

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

City of Santa Clara
Attention: Electric Department
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) 261-3012

And to Contractor addressed as follows:

Eagle Security Service/Cerny's Locksmith
26203 Production Avenue, #5
Hayward, California 94545
or by facsimile at (510) 783-4182

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

30. 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.

31. 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.

32. DISPUTE RESOLUTION.

A. Unless otherwise mutually agreed to by the Parties, any controversies between Contractor and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.

B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.

C. The costs of mediation shall be borne by the Parties equally.

D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit through mediation only. In the event of litigation, the prevailing Party shall recover its reasonable costs of suit, expert's fees, and attorney's fees. If mediation does not resolve the dispute, the Parties agree that the matter shall be litigated in a court of law, and not subject to the arbitration provisions of the Public Contracts Code.

33. COMPLIANCE WITH ETHICAL STANDARDS.

Contractor shall:

A. Read Exhibit D, entitled "ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA"; and,

B. Execute Exhibit E, entitled "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS."

34. AFFORDABLE CARE ACT OBLIGATIONS

To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

35. CONFLICT OF INTERESTS.

This Agreement does not prevent either Party from entering into similar agreements with other parties. To prevent a conflict of interest, Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

36. PROGRESS SCHEDULE.

The Progress Schedule will be as set forth in the attached Exhibit F, entitled "MILESTONE SCHEDULE" if applicable.

37. PREVAILING WAGES.

A. Labor Code Compliance. Contractor must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. Contractor agrees to include prevailing wage requirements in its contracts for the Project.

(Continued on Page 9 of 9)

B. Requirements in Subcontracts, Contractor shall require its contractors to include prevailing wage requirements in all subcontracts funded by this Agreement. Subcontracts shall include all prevailing wage requirements set forth in Contractor's contracts.

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:

RICHARD E. NOSKY, JR.
City Attorney

ATTEST:

for ROD DIRIDON, JR.
City Clerk

Dated: 12-24-2015

JULIO J. FUENTES
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

EAGLE SECURITY SERVICE/CERNY'S LOCKSMITH
A CALIFORNIA CORPORATION

Date: 12/9/15

By: _____
ZACKERY MUECK
Title: President
Address: 26203 Production Avenue, #5
Hayward, California 94545
Telephone: (800) 898-5412
Fax: (510) 783-4182

"CONTRACTOR"

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
EAGLE SECURITY SERVICE/CERNY'S LOCKSMITH

EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are to provide installation of Card Access as well as labor for external POE Video Camera within the Electric Department facilities.

Labor for Card Access door to include all mounting of door hardware, connecting all wiring, configuration of the Controller Panel for door, verifying System connection to Controller, System Configuration and testing for full operation of door for Card Access control.

Labor to add external POE Video Camera to include all mounting of Camera hardware on a flat wall of either stucco, sheet metal or wood, terminating Ethernet connectors and connecting all wiring, configuration of the Camera to meet User specs, verifying System connection to Camera, System Configuration, including license entry and verification and testing for full operation and recording of the new Camera.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
EAGLE SECURITY SERVICE/CERNY'S LOCKSMITH

EXHIBIT B

FEE SCHEDULE

In no event shall the amount billed to City by Contractor for services under this Agreement exceed one hundred thirty-five thousand dollars and zero cents ($135,000.00), subject to budget appropriations.

Video Technician Labor rate
(Minimum 2 hours plus travel)
Regular Rate: $128.00
Time and a Half (after hours): $192.00
Double Time: $256.00
Senior Technician (Engineering): $200.00
Consulting: $220.00
Emergency Service Fee (fee same day, emergency service): $167.50

Door and Locksmith Technician Labor rate
(Minimum 2 hours plus travel)
Regular Rate: $128.00
Time and a Half (after hours): $192.00
Double Time: $256.00
Senior Technician (Engineering): $200.00
Consulting: $220.00
Emergency Service Fee (fee same day, emergency service): $167.50

Cabling Technician Labor rate
(Minimum 2 hours plus travel)
Regular Rate: $128.00
Time and a Half (after hours): $192.00
Double Time: $256.00
Senior Technician (Engineering): $200.00
Consulting: $220.00
Emergency Service Fee (fee same day, emergency service): $167.50

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
EAGLE SECURITY SERVICE/CERNY'S LOCKSMITH

EXHIBIT C

INSURANCE COVERAGE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $1,000,000 each occurrence
   $1,000,000 general aggregate
   $1,000,000 products/completed operations aggregate
   $1,000,000 personal injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01, with minimum policy limits of not less than one million dollars ($1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with the following limits: at least one million dollars ($1,000,000) policy limit Illness/Injury by disease, and one million dollars ($1,000,000) for each Accident/Bodily Injury.

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given

to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and

deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.
City of Santa Clara [Electric Department]
P.O. 12010-S2 or 151 North Lyon Avenue
Hemet, CA 92546-8010 Hemet, CA 92543

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
EAGLE SECURITY SERVICE/CERNY'S LOCKSMITH

EXHIBIT D

ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA

Termination of Agreement for Certain Acts.

A. The City may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:

1. If a Contractor[1] does any of the following:

   a. Is convicted[2] of operating a business in violation of any Federal, State or local law or regulation;

   b. Is convicted of a crime punishable as a felony involving dishonesty[3];

   c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or, (3) performing a public contract or subcontract;

   d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a City contractor or subcontractor; and/or,

   e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.

[1] For purposes of this Agreement, the word "Consultant" (whether a person or a legal entity) also refers to "Contractor" and means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

[2] For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

[3] As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

2. If fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with the Contractor can be imputed to the Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

B. The City may also terminate this Agreement in the event any one or more of the following occurs:

1. The City determines that Contractor no longer has the financial capability[4] or business experience[5] to perform the terms of, or operate under, this Agreement; or,

2. If City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, Contractor's failure to maintain a required State issued license, failure to obtain a City business license (if applicable) or failure to provide and maintain bonds and/or insurance policies required under this Agreement.

C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Contractor may appeal the City's action to the City Council by filing a written request with the City Clerk within ten (10) days of the notice given by City to have the matter heard. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

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[4] Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code (11 U.S.C.), as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

[5] Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

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By: _____

Name: ZACKERY MUECK
Title: President

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CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Alameda }

On December 4, 2015 before me, Guadalupe Ibarra / Notary Public
(Here insert name and title of the officer)

personally appeared Zackery Mueck,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

GUADALUPE IBARRA
COMM. # 2071297
NOTARY PUBLIC • CALIFORNIA
ALAMEDA COUNTY
My Commission Expires
JUNE 13,2018

Guadalupe Ibarra
Notary Public Signature (Notary Public Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages ____ Document Date ____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer

(Title)

- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other ____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
EAGLE SECURITY SERVICE/CERNY'S LOCKSMITH

EXHIBIT F

MILESTONE SCHEDULE

(Not Applicable)

EBIX Insurance No. S200004577

AGREEMENT FOR SERVICES BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA, AND MONTROSE AIR QUALITY SERVICES, LLC

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Montrose Air Quality Services, LLC, a Delaware limited liability company, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";

B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between City and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions

of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

2. TERM OF AGREEMENT

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on September 1, 2020 and terminate on December 31, 2026.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

4. WARRANTY

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is Four Hundred Fifteen Thousand Seven Hundred Five Dollars ($415,705), subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall

be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

7. TERMINATION

A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.

B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.

C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to City all City information or material that Contractor has in its possession.

8. ASSIGNMENT AND SUBCONTRACTING

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

10. INDEPENDENT CONTRACTOR

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

11. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed

or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential. Contractor may make disclosures as required by law, provided, however, that prior to making any such legally required disclosure Contractor give City as much prior notice of the requirement for and contents of such disclosure as is permitted by law and is reasonably practicable under the circumstances.

12. OWNERSHIP OF MATERIAL

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

14. HOLD HARMLESS/INDEMNIFICATION

A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers,

employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, to the extent caused by and arising as a result of the services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly exclude passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the negligence or willful misconduct of City. In no event shall Contractor be responsible for any indirect, consequential, special or punitive damages arising out of, in connection with, or as a result of this Agreement. Contractor's aggregate liability to City shall not exceed an amount equal to one-and-a-half times the total fees paid to Contractor under this Agreement fees paid to Contractor under this Agreement.

B. Contractor's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.

C. To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

15. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

16. WAIVER

Contractor agrees that waiver by City 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. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

17. NOTICES

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

City of Santa Clara
Attention: Electric Department
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at svpcontracts@santaclaraca.gov, and
manager@santaclaraca.gov

And to Contractor addressed as follows:

Montrose Environmental Group, Inc.
2825 Verne Roberts Circle
Antioch, CA 94509
and by e-mail at kcrosby@montrose-env.com

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Contractor has read and agrees to comply with City's Ethical Standards (http://santaclaraca.gov/home/showdocument?id=58299).

19. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and

following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

20. FAIR EMPLOYMENT

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

21. NO USE OF CITY NAME OR EMBLEM

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

22. GOVERNING LAW 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.

23. SEVERABILITY CLAUSE

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.

24. AMENDMENTS

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

25. COUNTERPARTS

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.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form: Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

MONTROSE AIR QUALITY SERVICES, LLC
a Delaware Limited Liability Company

Dated: _____
By (Signature): _____
Name: Kevin Crosby
Title: Vice President
Principal Place of Business Address: 2825 Verne Roberts Circle, Antioch, CA 94509
Email Address: kcrosby@montrose-env.com
Telephone: (925) 680-4300
Fax: ( )

"CONTRACTOR"

EXHIBIT A
SCOPE OF SERVICES

1. GENERAL

1.1. Contractor shall provide all labor, tools, and equipment necessary to perform the following emissions testing services, in support of Silicon Valley Power (SVP), the City's electric utility.

1.1.1. Annual emissions source testing, and annual Continuous Emission Monitoring System (CEMS) Relative Accuracy Test Audit (RATA) testing for the Donald Von Raesfeld Power Plant.

1.1.2. Annual emissions source testing for the Cogeneration Power Plant; and

1.1.3. Biennial emissions source testing at the Gianera Power Plant.

1.2. The testing will be performed to determine compliance with the applicable source testing limitations of facility permits issued by the Bay Area Air Quality Management District (BAAQMD).

2. EMISSIONS TESTING SERVICES

2.1. Contractor shall provide a professional source test team to conduct the testing as described in this Agreement. The assigned test team members shall be familiar with the methods, procedures and degree of difficulty associated with the required testing.

2.2. Contractor shall perform testing on the turbines located at each plant

2.2.1. The purpose of the testing is to address the following issues at each plant.

2.2.1.1. To determine compliance with the applicable source testing limitations of Condition No. 24252 of permit #A4991 issued for the Donald Von Raesfeld (DVR) Power Plant by the BAAQMD as may be amended, extended, or renewed. This includes a Relative Accuracy Test Audit (RATA) of the continuous emission monitoring system (CEMS) at DVR pursuant to the requirements of 40CFR75 and 40CFR60.

2.2.1.2. To determine compliance with the applicable source testing limitations of Condition No. 14194 of permit #A0621 issued for the Cogeneration Power Plant by the BAAQMD as may be amended, extended, or renewed.

2.2.1.3. To determine compliance with the applicable source testing limitations of Condition No. 846 of permit #1771

issued for the Gianera Power Plant by the BAAQMD as may be amended, extended, or renewed.

2.2.2. Summaries of the test parameters required for each facility are presented in Table A1 below.

Table A1 – Test Parameters

Facility	Test Parameters
DVR Power Plant	Stack gas volumetric flow rate, dscfm Stack gas moisture content, % by volume Stack gas PM10, gr/dscf, lb/hr Stack gas NOX, ppmvd, ppm @ 15% O2, lb/hr, lb/MMbtu Stack gas CO, ppmvd, ppm @ 15% O2, lb/hr, (multiple loads) Stack O2, CO2 % volume dry (multiple loads) Stack gas SO2, ppmvd, ppm @ 15% O2, lb/hr Stack gas NH3, ppmvd, ppm @ 15% O2, lb/hr (multiple loads) Stack gas POC, ppmvd, ppm @ 15% O2, lb/hr Relative Accuracy of the plant CEMS (NOX, CO, O2)
Cogen Power Plant	Stack gas NOX, ppmvd, ppm @ 15% O2, lb/hr, lb/MMbtu Stack O2 % volume dry
Gianera Power Plant	Stack gas NOX, ppmvd, ppm @ 15% O2, lb/hr, lb/MMbtu Stack O2 % volume dry

2.3. Contractor shall mobilize a testing van to each site, and will provide a professional source test team to conduct the required testing.

3. PROJECT PLAN

3.1. The project is divided into the following tasks; A) Test Protocol, District Test Notification and Project Management; B) Preparation and Mobilization; C) Emission Testing; D) Lab Analysis; and E) Final Report. Each task is described in more detail below.

3.2. Task A: Test Protocol, District Test Notification and Project Management

3.2.1. Contractor shall draft a test protocol document and submit to SVP staff to review. SVP shall provide comments to Contractor.

3.2.2. Contractor prepare a final version of the test protocol document, incorporating SVP's comments.

3.2.3. Contractor shall work to submit the draft test protocol to SVP at least 40 days before the test so that the final version may be submitted at least 30 days prior to testing. The BAAQMD requests that a test protocol be submitted at least 14 days prior to the test date.

3.2.4. Contractor shall coordinate with SVP to determine the report submittal format.

3.2.5. The Test Protocol submittal will include notification of the test date(s) to the BAAQMD. If the test dates change, then Contractor will prepare a Notification of the test date(s) for SVP to submit to the BAAQMD (or Contractor can submit directly to the BAAQMD if SVP prefers).

3.2.6. Contractor's project management program shall ensure full involvement from SVP in the decision-making process, as well as continuous updates on the project status. Coordination of the project schedule and liaison with laboratories, Contractor staff and BAAQMD agency personnel are included in the management task.

3.3. Task B: Preparation and Mobilization

3.3.1. Mobilization shall include glassware cleaning tasks, equipment preparation and calibration, travel and on-site setup.

3.3.2. Mobilization shall also include equipment recovery and return travel after completion of testing.

3.3.3. Mobilization tasks shall be performed at least once each year of the Agreement.

3.4. Task C: Emissions Testing

3.4.1. Contractor shall perform emissions testing at each plant, including the determination of the stack gas concentrations and mass emission rates for the listed pollutants outlined in this Agreement.

3.4.2. The tests will be conducted with each unit running at the various operating conditions outlined in the applicable standards and permits.

3.4.3. This task shall incorporate all on-site activities after set-up and prior to teardown of the testing equipment.

3.4.4. The test schedule assumes that the plant can remain at or near the required operating condition throughout each part of the program.

3.5. Task D: Lab Analysis

3.5.1. Contractor shall procure laboratory services on behalf of the City. The services shall include all sample custody, sample shipping and laboratory analyses.

3.5.2. Samples shall be sent to following laboratories.

3.5.2.1. Particulate Matter, Ammonia (DVR only): MAQS Laboratory, Antioch, CA

3.5.2.2. Fuel Sulfur, NMOC (DVR only): Atmospheric Analysis & Consulting, Inc., Ventura, CA

3.5.3. The selected laboratories may change over the term of the Agreement in order to maintain the quality of the test results, as required by Contractor's Quality Management System.

3.5.4. Contractor shall work with the laboratories to ensure that the reporting schedule is met. The laboratory schedule allows 21 days for turn-around barring any problems that may occur beyond Contractor's control.

3.6. Task E: Final Report (Deliverable)

3.6.1. Contractor shall prepare a source test report for each facility in accordance with the regulatory requirements.

3.6.2. The BAAQMD has requested that reports and test protocols be provided in electronic form only. Therefore, Contractor shall submit an electronic version of each report to SVP for distribution to the BAAQMD and/or end users.

3.6.3. SVP staff shall review all draft reports prior to the release of the final report. The final report will incorporate all pertinent review comments from the draft report and will be submitted within 5 days following receipt of all review comments. The applicable report deadlines are listed below:

3.6.3.1. Donald Von Raesfeld Power Plant

- Draft Compliance Report to SVP within 40 days following testing.
- Final Compliance Report to SVP within 55 days following testing.
- Report to BAAQMD within 60 days after testing.

3.6.3.2. Cogeneration Power Plant

- Draft Compliance Report to SVP within 21 days following testing.
- Final Compliance Report to SVP within 28 days following testing.
- Report to BAAQMD within 30 days after testing.

3.6.3.3. Gianera Power Plant

- Draft Compliance Report to SVP within 21 days following testing.
- Final Compliance Report to SVP within 28 days following testing.
- Reports maintained on-site for 5 years.

3.6.4. At the end of each test day, Contractor Project Manager will provide an informal summary of the test activities of the day, including any available preliminary test results. Subsequent laboratory results will be made available to SVP as Contractor receives them.

3.6.5. Each report will include complete documentation of the field data, calibration data, laboratory data, testing procedures, source location information, QA/QC summary, calculations, and results. At a minimum, the final report will contain all items listed in this Agreement, and will be prepared in accordance with an approved reporting format.

4. TEST PROCEDURES

4.1. The complete target list of compounds outlined in this Agreement will be measured in triplicate. The test methods and expected detection limits are outlined in Table A2 below. The tests will be conducted according to the reference methods, as they are very complete in their description of the procedures. Each method has specific requirements for quality assurance that will be followed for preparation of the sampling reagents and apparatus, for sampling and sample recovery, for shipping and handling, and for laboratory analyses.

Table A2: Test Methods and Expected Detection Limits

Parameter	Test Method	Analytical Approach	Detection Limit
O_2	EPA 3A	Paramagnetism	< 2% of full scale
CO_2	EPA 3A	Non-dispersive infrared	< 2% of full scale
CO	EPA 10	Gas filter correlation	< 2% of full scale
NOx	EPA 7E	Chemiluminescence	< 2% of full scale
SOx as SO_2	ASTM D-5504	Calculated from fuel sulfur	< 0.1 ppm
NH_3	BAAQMD ST-1B	Ion-selective electrode	< 0.2 ppm
PM_{10}	EPA 5/202	Gravimetric with condensible analysis	< 0.0005 gr/dscf
POC	EPA TO-12 (modified)	Pre-concentration, GC/FID	< 0.1 ppm
Volumetric flow rate	EPA 19/EPA 1, 2	Stoichiometric calculation, pitot/temperature traverse	--
Moisture content	EPA 4	Impinger weight gain	--
CEMS RATA	40CFR60, App. B 40CFR75, App. A	Calculation from test results	--
Fuel Sulfur	ASTM D-5504	Gas chromatography	10-100 ppb

Note: The permit conditions require calculation of correlations between the heat input rates and NH_3 injection rates for control of NH_3 and NO_X emissions (DVR) and between the water injection rate and NO_X emissions (Cogen, Gianera). Calculation of these correlations will be provided in the final report for each test.

5. TEST SCHEDULE

5.1. Contractor shall perform the required testing services in accordance with Table A3 below.

Table A3 – Test Schedule

DAY	LOCATION AND ACTIVITY	TEST RUNS	TEST RUN DURATION
21 days prior	Draft test protocol submittal		
14 days prior	Final test protocol and notification submittal	--	--
Day 1 (typically Monday)	Mobilize to DVR, set-up equipment Perform Engineering Test once unit at load Test **DVR Unit 1**, base load, NH_3	-- 1 #1, 2, 3	-- ~30 minutes 30 min. each
Day 2	Perform Engineering Test once unit at load Test **DVR Unit 1** maximum load PM_{10} RATA, NO_X, CO, O_2 POC, NH_3 Fuel sulfur content	1 #1, 2, 3 #1 to 12 #1, 2, 3 1	~30 minutes 120 min. ea. 21 min. each 30 min. each 10 min.
Day 3	Perform Engineering Test once unit at load Test **DVR Unit 1**, minimum load, CO, NH_3 Move to Unit 2 Perform Engineering Test once unit at load Test **DVR Unit 2**, base load, NH_3	1 #1, 2, 3 -- 1 #1, 2, 3	~30 minutes 30 min. each -- ~30 minutes 30 min. each
Day 4	Perform Engineering Test once unit at load Test **DVR Unit 2** maximum load PM_{10} RATA, NO_X, CO, O_2 POC, NH_3 Fuel sulfur content	1 #1, 2, 3 #1 to 12 #1, 2, 3 1	~30 minutes 120 min. ea. 21 min. each 30 min. each 10 min.
Day 5	Perform Engineering Test once unit at load Test **DVR Unit 2**, minimum load, CO, NH_3 Mobilize to Robert Ave., place equipment	1 #1, 2, 3 --	~30 minutes 30 min. each --
--	Weekend	--	--
6 (Typically Monday)	Travel to site, complete equipment set-up	--	--
7	Perform Engineering Test once unit at load Test **Robert Ave. Cogen Unit 1** O_2, CO_2, CO, NO_x Perform Engineering Test once unit at load Test **Robert Ave. Cogen Unit 2** O_2, CO_2, CO, NO_x Move to Gianera, set-up equipment	1 -- #1, 2, 3 1 -- #1, 2, 3 --	~30 minutes 30 min. each ~30 minutes -- 30 min. each --
8	Perform Engineering Test once unit at load Test **Gianera Unit 1** O_2, CO_2, CO, NO_x Perform Engineering Test once unit at load	1 #1, 2, 3 1	~30 minutes 30 min. each ~30 minutes

Table A3 – Test Schedule			
DAY	**LOCATION AND ACTIVITY**	**TEST RUNS**	**TEST RUN DURATION**
	Test **Gianera Unit 2** O_2, CO_2, CO, NO_x Equipment Recovery, Return Travel	#1, 2, 3 --	30 min. each --
21 days after	Draft compliance reports submittal (Cogen and Gianera)	--	--
28 days after	Final compliance reports submittal (Cogen and Gianera)	--	--
40 days after	Draft compliance/RATA report submittal (DVR-more complex report)	--	--
55 days after	Final compliance/RATA report submittal (DVR-more complex report)	--	--

Note 1: The Engineering Test will include a brief measurement of NO_X, CO and O_2, and comparison of current unit water and/or ammonia injection rates with data from previous years tests – to determine the likely compliance with emission limits. Additional diagnostic testing may be conducted at time and materials rates if requested by SVP. The schedule shown is subject to change based on availability of the process conditions. Many test runs each day will be concurrent (e.g. NO_X, CO, POC during the PM_{10} run). Actual test dates will depend on the plant's operating schedule

Note 2: The order of testing the three facilities and the units within those facilities may shift to accommodate unit load availability. The Gianera tests are every other year, so will be deleted from the schedule in the "off" years. The test days will generally be planned for non-weekend days to allow the BAAQMD to be present to observe the testing. The reporting deadlines are different for DVR, as that report is more complex than those for the Cogen and Gianera facilities.

EXHIBIT B
SCHEDULE OF FEES AND PAYMENT PROVISIONS

1. Maximum Compensation

The maximum amount of compensation to be paid to Contractor shall not exceed Four Hundred Fifteen Thousand Seven Hundred Five Dollars ($415,705) and approved invoices shall be paid within thirty (30) days of City's receipt of Contractor's invoice.

2. Payment Schedule

City shall pay Contractor for completed emissions testing services in accordance with Table B1 below.

3. Invoicing

Progress invoices will be issued incrementally in the form of two invoices: (1) the first invoice is issued after completion of the field work and includes project management, preparation, equipment fees, specialized rentals, mobilization, performance of the field work, and analytical tasks, and (2) the second invoice includes the reporting and ERT (if applicable) and is issued upon delivery of the final report, or five business days following delivery of the draft report. Time and materials (T&M) and optional testing may be invoiced separately.

4. Additional Payment Terms

4.1.1. Should changes in scope become necessary (e.g. remobilization, out of scope, standby time, etc.), the fee schedule listed in Table B-1 (Fee Schedule) may be adjusted according to the standard fee schedule for source testing plus all applicable lab fees, equipment and expenses as detailed in rate schedule attached as Attachment B-2. Labor rates outlined in Attachment B-2 may be amended annually after July 1, 2021 subject to reasonable notice and justification to SVP and acceptance by SVP in writing.

4.1.2. Overtime rates shall be invoiced when applicable.

4.1.3. Any out of scope work or other work resulting in costs in additional to those outlined in Table B-1 must be approved, in writing, in advance using the process outlined in this Agreement.

4.1.4. The following terms and conditions for source testing shall apply:

4.1.4.1. Process Information: SVP is responsible for providing accurate process information in a manner acceptable to the regulatory agency and in sufficient detail to perform the necessary test calculations and complete the pertinent regulatory agency forms.

4.1.4.2. Safety Training: Time spent for plant required safety orientation or training longer than 30 minutes in duration will accrue additional charges at the per-person, per-hour standby rate, plus expenses.

4.1.4.3. Drug Testing: Drug testing or physical examinations required by SVP, which are not covered by Montrose company policy will be invoiced at the per-person, per-hour standby rate, plus the cost of the drug test or examination. Montrose will notify SVP in advance of such cost and will provide documentation demonstrating that such testing or examinations are outside industry or regulatory standards.

4.1.4.4. Postponement: If SVP postpones or reschedules a test, all actual expenses incurred for the preparation and travel that must be repeated prior to the actual test will be invoiced. If the postponement is made less than two weeks prior to a scheduled test date, Montrose reserves the right to charge SVP an additional fee of 10% of the estimated project price. If the project is postponed less than a week before the scheduled test date, Montrose reserves the right to charge SVP an additional fee of 25% of the estimated project price. Montrose shall provide documentation demonstrating all actual expenses.

4.1.4.5. Standby Fees: If the test team arrives on site and cannot test due to causes beyond the control of Montrose (i.e., SVP's process or equipment delays, inclement weather, etc.); standby fees will be charged at the normal Montrose labor rates attached.

4.1.4.6. Cancellation: If SVP cancels testing after a purchase order is issued or a test scheduled, Montrose will charge a cancellation fee plus expenses incurred for travel and/or preparation expenses incurred. The cancellation fee will follow the same schedule described in Postponement above.

4.1.4.7. Audit Samples: The EPA Stationary Audit Sample Program (SSAS) has been discontinued. The SSAS requires that two or more independent audit providers be available, currently there is only one. If a second provider becomes available, the program will be reinstated. Until that time, Montrose will not acquire audit samples associated with the SSAS program. If the program is reinstated, Montrose shall not be responsible or held liable for an unsuccessful test resulting from failed audit sample analysis conducted by a third-party subcontracted laboratory. Montrose's liability under such circumstances shall be limited to the actual cost of the audit sample analysis, and shall not extend to cost of procurement of the audit samples or any costs associated with re-testing, whether or not such re-testing is required by any regulatory agency or official.

4.1.4.8. Inclement Weather: Inclement weather is defined as lightning, thunderstorms, strong winds, icing, or other atmospheric conditions that may endanger or cause damage to Montrose personnel and/or equipment or otherwise adversely affect the test results. The decision to conduct or postpone sampling operations will be at the

discretion of the Montrose test team leader. Should weather conditions preclude safe testing during the scheduled hours and days SVP will be invoiced at the per-person, per-hour standby rate, plus expenses.

4.1.4.9. DOT Driving Requirements: All source sampling companies, are subject to and must comply with local and Federal Department of Transportation (DOT) regulations. The regulations include specific ‘hours of service’ provisions with which our employees/drivers must adhere to. Montrose does not quote projects to exceed the on-duty time; however, if the applicable DOT rules are exceeded due to out of scope work or delays, driving DOT vehicles will not be permitted. In this case, an extra-night stay over may be required. SVP will then be invoiced at the per-person, per-day standby rate, plus expenses.

4.1.4.10. Limitations of Liability: Montrose shall not be responsible for an unsuccessful test due to failure, malfunction, or improper operation of the SVP's process and/or control equipment. SVP is responsible for having the process and/or control equipment operating in a representative manner. Montrose may recommend adjustments to equipment operation, but such action will be at the discretion of SVP and will in no way render Montrose liable.

Table B1 – Fee Schedule							
	2020	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
DVR Power Plant Cost Breakdown Annual Compliance and RATA							
Test Protocol / Notification (deliverable)		$936.00	$955.00	$974.00	$993.00	$1,013.00	$1,033.00
Preparation (i.e. equipment, glassware, labware)		$1,444.00	$1,473.00	$1,503.00	$1,533.00	$1,563.00	$1,595.00
Equipment Fees (i.e., rental and calibration gas usage)		$5,794.00	$5,909.00	$6,028.00	$6,148.00	$6,271.00	$6,397.00
Testing (i.e. set-up, on-site testing, teardown, supplies)		$21,464.00	$21,893.00	$22,331.00	$22,778.00	$23,233.00	$23,698.00
Analytical In-house (sample shipping, supplies)		$3,180.00	$3,244.00	$3,309.00	$3,375.00	$3,443.00	$3,511.00
Analytical Outside (fuel analysis)		$3,366.00	$3,433.00	$3,502.00	$3,572.00	$3,643.00	$3,716.00
Test Report (deliverable)		$1,632.00	$1,665.00	$1,698.00	$1,732.00	$1,767.00	$1,802.00
DVR POWER PLANT SUBTOTAL		**$37,816.00**	**$38,572.00**	**$39,345.00**	**$40,131.00**	**$40,933.00**	**$41,752.00**
Cogen Power Plant Cost Breakdown Annual Compliance	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
Project Management (i.e. managing equipment, personnel, and laboratories)	$709.00	$513.00	$523.00	$534.00	$544.00	$555.00	$566.00
Preparation (i.e. equipment, glassware, labware)	$354.00	$361.00	$368.00	$376.00	$383.00	$391.00	$399.00
Equipment Fees (i.e., rental and calibration gas usage)	$1,020.00	$1,040.00	$1,061.00	$1,082.00	$1,104.00	$1,126.00	$1,149.00
Testing (i.e. set-up, on-site testing, teardown, supplies)	$3,966.00	$4,045.00	$4,126.00	$4,209.00	$4,293.00	$4,379.00	$4,466.00
Test Report (deliverable)	$726.00	$741.00	$755.00	$770.00	$786.00	$802.00	$818.00
COGENERATION POWER PLANT SUBTOTAL	**$6,775.00**	**$6,700.00**	**$6,833.00**	**$6,971.00**	**$7,110.00**	**$7,253.00**	**$7,398.00**

Table B1 – Fee Schedule (continued)							
Gianera Power Plant Cost Breakdown Biennial Compliance	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**
Project Management (i.e. managing equipment, personnel, and laboratories).	$709.00		$523.00		$544.00		$566.00
Preparation (i.e. equipment, glassware, labware)	$354.00		$368.00		$383.00		$399.00
Equipment Fees (i.e., rental and calibration gas usage)	$1,020.00		$1,061.00		$1,104.00		$1,149.00
Testing (i.e. set-up, on-site testing, teardown, supplies)	$3,966.00		$4,126.00		$4,293.00		$4,466.00
Test Report (deliverable)	$726.00		$755.00		$786.00		$818.00
GIANERA POWER PLANT SUBTOTAL	**$6,775.00**		**$6,833.00**		**$7,110.00**		**$7,398.00**
SUBTOTALS	**$13,550.00**	**$44,516.00**	**$52,238.00**	**$46,316.00**	**$54,351.00**	**$48,186.00**	**$56,548.00**
GRAND TOTAL	**$315,705.00**						

EXHIBIT B-2
LABOR RATES

FEE SCHEDULE FOR SOURCE TESTING
EFFECTIVE JANUARY 1, 2020

Field Testing Personnel	**Hourly Rate ($)**
Consultant	235
Client Project Manager	200
Field Project Manager	160
Senior Technician	140
Field Technician	100

Support Personnel	**Hourly Rate ($)**
Senior Office Worker	135
Office Worker	95

Overtime Rate	**Hourly Rate ($)**
Over 8 hours per day or between 40 and 60 hours per week	Standard Rate x 1.5
Over 12 hours per day or over 60 hours per week	Standard Rate x 2.0

Note: MAQS also accounts for overtime meeting the "consecutive day" rules.

Overhead Direct Costs	**Unit Rate ($)**
Per Diem	150/day
Mobile Lab Vehicle Mileage	1.50/mile
Other Overhead Direct Costs, including analytical costs	Cost Plus 15%

Testing Equipment Fees	**Daily Rate ($)**
Mobile Laboratory, no CEMS	355
Chase vehicle - (mileage charged separately at $0.75/mile)	125
Portable Sampling System	205
Data Acquisition System	105
Strip Chart Recorders	105
O_2 Analyzer (calibration gases charged separately for all analyzers)	130
CO_2 Analyzer	130
CO Analyzer	180
NO_X Analyzer	180
SO_2 Analyzer	205
THC Analyzer	305
FTIR Analyzer (on site)	755
Gas Chromatograph (on site).	755
Heated sample line	105
Isokinetic Sampling System - Complete	255
Non-Isokinetic Pump & Meter	180
VOST Meter Box	230
201A / OTM-027 Cyclone / Cascade Impactor	130
Impinger Set	105
Midget Impinger Assembly	155
Lung Sampler	105
Tedlar Bags (each)	40

1/1/2020 - This fee schedule supersedes all previous fee schedules.

EXHIBIT C
INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate
   $2,000,000 Products/Completed Operations Aggregate
   $1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross-liability exclusion which precludes coverage for claims or suits by one insured against another; and

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars ($1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated

wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars ($2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars ($1,000,000) policy limit Bodily Injury by disease, one million dollars ($1,000,000) each accident/Bodily Injury and one million dollars ($1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

   b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.
City of Santa Clara Electric Department
P.O. Box 100085 – S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

Ebix Insurance No.S200001219

AMENDMENT NO. 1
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABORATORIES

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories a California corporation, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and between the City of Santa Clara, California, and Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories", dated November 28, 2017 (Agreement); and

B. The Parties entered into the Agreement for the purpose of having Contractor provide inspection and material testing services, and the Parties now wish to amend the Agreement.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

1. Section 5 of the Agreement, entitled "Term of Agreement" is amended to read as follows:

   Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on September 30, 2022.

2. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form: Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

QUALITY ASSURANCE ENGINEERING. INC. DBA CONSOLIDATED ENGINEERING LABORATORIES
a California corporation

Dated: 3/11/2020
By (Signature): Charlie Brice
Name: CHARLIE BRICE
Title: Chief Financial Officer
Principal Place of Business Address: 2001 Crow Canyon Road, Suite 100 San Ramon, California 94583
Telephone: (925) 314-7400
Fax: (888) 222-7132

"CONTRACTOR"

City of Santa Clara
The Center of What's Possible

APPROVED
by Council
11-21-17
date

AGENDA ITEM #: 12.B3

AGENDA REPORT

Date: November 21, 2017

To: City Manager for Council Action

From: Chief Electric Utility Officer

Subject: Approval of an Agreement for the Performance of Services with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories for Inspection and Materials Testing Services for Various Electric Substation Projects

EXECUTIVE SUMMARY

The City of Santa Clara's Electric Department, Silicon Valley Power (SVP), is undertaking a significant capital construction program for electric transmission, substation and distribution facilities over the next several years. This work is necessary to meet customer demands for increased electric load while maintaining SVP's high service.

The City's Building Inspection Division requires materials testing and special construction inspections during certain stages of construction. In response to the increased construction need to meet customer requests, SVP sought supplemental assistance and issued an RFP for Material Testing and Special Construction Inspections associated with civil construction. SVP received five (5) proposals outlining each firm's qualifications and experience. The proposals were reviewed against a comprehensive scorecard evaluating each specific area of the RFP. Each proposal was ranked on the firm's demonstrated ability to successfully perform the work as outlined in the RFP. Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories (CEL) was scored as the firm that best met the requirements based on the RFP's criteria.

Staff recommends that an Agreement for the Performance of Services be executed with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories (CEL) for on-call material testing and inspection services pertaining to substation, transmission and distribution facilities over the next three years. A copy of the Agreement for the Performance of Services with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories can be viewed on the City's website and is available in the City Clerk's Office for review during normal business hours.

ADVANTAGES AND DISADVANTAGES OF ISSUE

Utilizing a qualified testing and inspection firm such as CEL will provide for efficiencies and consistency to meet the special construction inspection requirements of the Building Inspection Division. No disadvantages were identified with this issue.

ECONOMIC/FISCAL IMPACT

This Agreement shall not exceed $250,000.00 over a three year term. Staff anticipates spending $75,000.00 in the first year of this agreement, and sufficient funds are available in the following Electric Departments Capital Projects: Great America Streetlight Replacement, 534-1361-80300-2875-00019-37300 ($10,000); New Business Estimate Work 591-1361-80300-2005-00005-36600 ($10,000); Distribution Capital Maintenance and Betterments, 591-1361-80300-2006-00037-36600 ($25,000); De La Cruz Junction Substation 60kV 591-1361-80300-2116-00037-35400 ($10,000); Transmission System Reinforcements 591-1361-80300-2124-00037-35400 ($10,000) and Relocation of Electric Crossings for CALTrain, 591-1361-80300-2421-00042-35400 ($10,000).

RECOMMENDATION

That Council approve, and authorize the City Manager to execute, an Agreement for the Performance of Services with Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories, in an amount not to exceed $75,000 for the first year of the Agreement and a total not to exceed $250,000 over the three year term, for inspection and materials testing services for various electric substation projects.

John C. Roukema
Chief Electric Utility Officer

OK DL

Certified as to Availability of Funds:

534-1361-80300-2875	$10,000
591-1361-80300-2005	$10,000
591-1361-80300-2006	$25,000
591-1361-80300-2116	$10,000
591-1361-80300-2124	$10,000
591-1361-80300-2421	$10,000

Angela Kraetsch
Acting Director of Finance

APPROVED:

Deanna J. Santana
City Manager

Documents Related to this Report:

1) *Agreement for the Performance of Services with Quality Assurance Engineering, Inc., dba Consolidated Engineering Laboratories*

EBIX Insurance No. S200002019

AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA, AND QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABORATORIES

PREAMBLE

This agreement for the performance of services ("Agreement") is by and between Quality Assurance Engineering, Inc. DBA Consolidated Engineering Laboratories, a California corporation, with its principal place of business located at 2001 Crow Canyon Road, Suite 100, San Ramon, CA 94583 ("Contractor"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. City desires to secure professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services"; and

B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT PROVISIONS

1. EMPLOYMENT OF CONTRACTOR.

City hereby employs Contractor to perform services set forth in this Agreement. To accomplish that end, City may assign a Project Manager to personally direct the Services to be provided by Contractor and will notify Contractor in writing of City's choice. City shall pay for all such materials and services provided which are consistent with the terms of this Agreement.

2. SERVICES TO BE PROVIDED.

Except as specified in this Agreement, Contractor shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as "Services") to satisfactorily complete the work required by City at his/her own risk and expense. Services to be provided to City are

more fully described in Exhibit A entitled "SCOPE OF SERVICES." All of the exhibits referenced in this Agreement are attached and are incorporated by this reference.

3. COMMENCEMENT AND COMPLETION OF SERVICES.

A. Contractor shall begin providing the services under the requirements of this Agreement upon receipt of written Notice to Proceed from City. Such notice shall be deemed to have occurred three (3) calendar days after it has been deposited in the regular United States mail. Contractor shall complete the Services within the time limits set forth in the Scope of Services or as mutually determined in writing by the Parties.

B. When City determines that Contractor has satisfactorily completed the Services, City shall give Contractor written Notice of Final Acceptance. Upon receipt of such notice, Contractor shall not incur any further costs under this Agreement. Contractor may request this determination of completion be made when, in its opinion, the Services have been satisfactorily completed. If so requested by the contractor, City shall make this determination within fourteen (14) days of its receipt of such request.

4. QUALIFICATIONS OF CONTRACTOR - STANDARD OF WORKMANSHIP.

Contractor represents and maintains that it has the necessary expertise in the professional calling necessary to perform services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

The plans, designs, specifications, estimates, calculations, reports and other documents furnished under Exhibit A shall be of a quality acceptable to City. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well organized, that is technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by City for similar projects.

5. TERM OF AGREEMENT.

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on September 30, 2020.

6. MONITORING OF SERVICES.

City may monitor the Services performed under this Agreement to determine whether Contractor's operation conforms to City policy and to the terms of this Agreement. City may also monitor the Services to be performed to determine whether financial operations are conducted in accord with applicable City, county, state, and federal requirements. If

any action of Contractor constitutes a breach, City may terminate this Agreement pursuant to the provisions described herein.

7. WARRANTY.

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect, and shall conform to the specifications, requirements, and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate, or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

8. PERFORMANCE OF SERVICES.

Contractor shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by City. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it. Contractor will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

9. BUSINESS TAX LICENSE REQUIRED.

Contractor must comply with Santa Clara City Code section 3.40.060, as that section may be amended from time to time or renumbered, which requires that any person who transacts or carries on any business in the City of Santa Clara pay business license tax to the City. A business tax certificate may be obtained by completing the Business Tax Affidavit Form and paying the applicable fee at the Santa Clara City Hall Municipal Services Division.

10. RESPONSIBILITY OF CONTRACTOR.

Contractor shall be responsible for the professional quality, technical accuracy and coordination of the Services furnished by it under this Agreement. Neither City's review, acceptance, nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and Contractor shall be and remain liable to City in accordance with applicable law for all damages to City caused by Contractor negligent performance of any of the Services furnished under this Agreement.

Any acceptance by City of plans, specifications, construction contract documents, reports, diagrams, maps and other material prepared by Contractor shall not in any respect absolve Contractor from the responsibility Contractor has in accordance with customary standards of good professional practice in compliance with applicable federal, state, county, and/or municipal laws, ordinances, regulations, rules and orders.

11. COMPENSATION AND PAYMENT.

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and services rendered by Contractor at the rate per hour for labor and cost per unit for materials as outlined in Exhibit B, entitled "SCHEDULE OF FEES."

Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month, subject to verification by City. City will pay Contractor within thirty (30) days of City's receipt of invoice.

12. 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 thirty (30) calendar days after a Party receives such notice. After either Party terminates the Agreement, Contractor shall discontinue further services as of the effective date of termination, and City shall pay Contractor for all Services satisfactorily performed up to such date.

13. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

14. NO THIRD PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

15. INDEPENDENT CONTRACTOR.

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights, however, to manage its employees in their performance of Services under this Agreement. Contractor is not authorized to bind City to any contracts or other obligations.

16. NO PLEDGING OF CITY'S CREDIT.

Under no circumstances shall Contractor have the authority or power to pledge the credit of City or incur any obligation in the name of City. Contractor shall save and hold harmless the City, its City Council, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of City's credit by Contractor under this Agreement.

17. CONFIDENTIALITY OF MATERIAL.

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

18. USE OF CITY NAME OR EMBLEM.

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

19. OWNERSHIP OF MATERIAL.

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

20. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR.

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

21. CORRECTION OF SERVICES.

Contractor agrees to correct any incomplete, inaccurate or defective Services at no further costs to City, when such defects are due to the negligence, errors or omissions of Contractor.

22. FAIR EMPLOYMENT.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

23. HOLD HARMLESS/INDEMNIFICATION.

To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which City shall become liable arising from Contractor's negligent, reckless or wrongful acts, errors, or omissions with respect to or in any way connected with the Services performed by Contractor pursuant to this Agreement.

24. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City insurance policies with respect to employees and vehicles assigned to the Performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in Exhibit C.

25. AMENDMENTS.

This Agreement may be amended only with the written consent of both Parties.

26. INTEGRATED DOCUMENT.

This Agreement represents the entire agreement between City and Contractor. No other understanding, agreements, conversations, or otherwise, with any representative of City 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 City.

27. SEVERABILITY CLAUSE.

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.

28. WAIVER.

Contractor agrees that waiver by City 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.

29. NOTICES.

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

City of Santa Clara
Attention: Electric Department
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) 244-2990

And to Contractor addressed as follows:

Quality Assurance Engineering, Inc. DBA Consolidated Engineering Laboratories
2001 Crows Canyon Road, Suite 100
San Ramon, CA 94583
or by facsimile at (888) 222-7132

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

30. 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.

31. 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.

32. DISPUTE RESOLUTION.

A. Unless otherwise mutually agreed to by the Parties, any controversies between Contractor and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.

B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.

C. The costs of mediation shall be borne by the Parties equally.

D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit through mediation only. If mediation does not resolve the dispute, the Parties agree that the matter shall be litigated in a court of law, and not subject to the arbitration provisions of the Public Contracts Code.

33. COMPLIANCE WITH ETHICAL STANDARDS.

Contractor shall:

A. Read Exhibit D, entitled "ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA"; and,

B. Execute Exhibit E, entitled "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS."

34. AFFORDABLE CARE ACT OBLIGATIONS

To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

35. PREVAILING WAGES.

35.1. Labor Code Compliance. Contractor must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. Contractor agrees to include prevailing wage requirements in its contracts for the Project.

35.2. Requirements in Subcontracts. Contractor shall require its contractors to include prevailing wage requirements in all subcontracts funded by this Agreement. Subcontracts shall include all prevailing wage requirements set forth in Contractor's contracts.

36. CONFLICT OF INTERESTS.

This Agreement does not prevent either Party from entering into similar agreements with other parties. To prevent a conflict of interest, Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

37. PROGRESS SCHEDULE.

The Progress Schedule will be as set forth in the attached Exhibit F, entitled "MILESTONE SCHEDULE" if applicable.

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:

BRIAN DOYLE
Interim City Attorney

Dated: 11/28/17

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

ATTEST:

ROD DIRIDON, JR.
City Clerk

"CITY"

QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABORATORIES
a California corporation

Date: 10/12/17

By: CHARLIE BRICE
Title: Chief Financial Officer
Address: 2001 Crow Canyon Road, Ste. 100
San Ramon, CA 94583
Telephone: (925) 314-7100
Fax: (888) 222-7132

"CONTRACTOR"

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABORATORIES

EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are to provide Inspection and Material Testing Services as set forth in the attached document entitled "Various Electric Substation Inspection Service Fee Proposal" from Contractor's proposal entitled "Inspection and Materials Testing Services for Various Electric Substation Projects," dated June 30, 2017, ("Proposal").

REQUEST FOR PROPOSAL FOR INSPECTION AND MATERIALS TESTING SERVICES

ATTACHMENT F

Various Electric Substation Inspection Services Fee Proposal

DESCRIPTION	QUANTITY	UNIT RATE	SUBTOTAL
GEOTECHNICAL ENGINEER OF RECORD			
Building Pad Preparation			
Technician	60 Hours	$81.00	$4,860.00
Lab, Max Density/Opt Moisture	2 Each	$215.00	$430.00
Site Work			
Underground utility backfill, vault backfilling, subgrade prep, base rock and AC	200 Hours	$81.00	$16,200.00
Lab, Max Density/Opt Moisture	2 Each	$215.00	$430.00
Consultation, Final, Field Daily Review, Foundation Excavation Observations			
Consultation, letters, PM, Drilled Pier Observation, Admin.	132 Hours	$100.00	$13,200.00
SUBTOTAL			$35,120.00
REINFORCED CONCRETE			
Mix Design Review	2 Each	$100.00	$200.00
Reinforcing Steel	60 Hours	$77.00	$4,620.00
Concrete Placement and Sampling	105 Hours	$77.00	$8,085.00
Compression Tests	90 Each/ 5 Cylinders per set	$16.00	$1,440.00
Sample Pick-ups	10 Trips	$16.00	$160.00
SUBTOTAL			$14,505.00
MASONRY			
Mix Design Review	2 each	$100.00	$200.00
Masonry Placement Inspection	300 Hours	$78.00	$23,400.00
Composite Prisms	9 Each/ 3 sets	$50.00	$450.00
Grout Compression Tests	160 Each/40 sets	$16.00	$2,560.00
Mortar Compression Tests	164 Each/41 sets	$16.00	$2,624.00
Sample Pick-ups	30 Trips	$16.00	$480.00
SUBTOTAL			$29,714.00
STRUCTURAL STEEL			
Field Welding Inspection	120 Hours	$77.00	$9,240.00
SUBTOTAL			$9,240.00
POST-INSTALLED ANCHORS			
Placement of Post-Installed Anchors	8 Hours	$77.00	$616.00
SUBTOTAL			$616.00
MISCELLANEOUS			
Final Affidavit (1 per Permit)		$400.00	$400.00
Project Engineering and Management Fee	5% of Fees		$4,479.75
GRAND TOTAL			$94,074.75

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABRATORIES

EXHIBIT B

FEE SCHEDULE

In no event shall the amount billed to City by Contractor for services under this Agreement exceed two hundred fifty thousand dollars ($250,000.00), subject to budget appropriations.

See attached Rate Sheets

CONSOLIDATED ENGINEERING
LABORATORIES

SILICON VALLEY POWER FEE SCHEDULE
CONSTRUCTION INSPECTION AND MATERIALS TESTING
10% Discount Applied

Effective June 1, 2017 through July 31, 2018

ENGINEERING SERVICES		UNIT RATE	UNIT
Principal/Principal Engineer	$	180.00	hour
Geotechnical Engineer	$	162.00	hour
Senior Engineer	$	162.00	hour
Project Engineer/Geologist	$	135.00	hour
Staff Engineer	$	117.00	hour
Assistant Engineer	$	108.00	hour
Field Supervisor	$	108.00	hour
INSPECTION SERVICES		**UNIT RATE**	**UNIT**
ICC/AWS Inspector with NDT Equipment	$	77.00	hour
ICC/AWS Inspector (Visual Only)	$	77.00	hour
ICC Certified Inspector	$	77.00	hour
Proofload Testing/Anchor Installation Inspector	$	77.00	hour
Inspector/Field Technician's Basic Hourly Rate	$	77.00	hour
Mechanical	$	97.20	hour
Electrical	$	97.20	hour
Plumbing Inspector	$	97.20	hour
OSHPD IFC Premier Certified Firestop Inspector	$	108.00	hour
Soils Inspector with Nuclear Gauge (Portal-to-Portal Charges Apply)	$	81.00	hour
SPECIALIZED SERVICES		**UNIT RATE**	**UNIT**
Pachometer	$	99.00	hour
In-Place Brick Shear Tests (Masonry) - Two-Person Crew (4-hour minimum)	$	162.00	hour
Ground Penetrating Radar (GPR)			
- One Man Crew	$	180.00	hour
- Two Man Crew	$	270.00	hour
Floor Flatness Testing:			
- Surveying/Inspection	$	135.00	hour
Phased Array Technician	$	121.50	hour
Profileograph Technician	$	121.50	hour
Profileograph Equipment		Quotation on Request	
CORING SERVICES		**UNIT RATE**	**UNIT**
Coring Machine Operator	$	117.00	hour
Helper (add per hour)	$	63.00	hour
Diamond Drill Bit Charges, per inch to 5"	$	7.20	inch
Diamond Drill Bit Charges, per inch 6" and over		Quotation on Request	
CONCRETE		**UNIT RATE***	**UNIT**
Concrete Mix Design Review	$	100.00	each
Trial Batches, Prepared in Laboratory C192	$	810.00	each
Length Change of Concrete (Shrinkage), set of 3, ASTM C157, CT 530	$	360.00	each
Compression, 6X12 Cylinders, ASTM C 39, CT 521	$	16.00	each
Compression 4x8 Cylinders ASTM C 39	$	16.00	each

* Based on standard turnaround times.
Rush tests are an additional 50%.

CONSOLIDATED ENGINEERING
LABORATORIES

Compression, Core (including end preparation), ASTM C 42	$	85.50	each
Compression, 3X6 Cylinders Lightweight Insulating Concrete, ASTM C 495	$	72.00	each
Grout Compression, 2X2 Cubes, each age, ASTM C 109	$	58.50	each
Epoxy Grout 2x2 Cube Compression ASTM C 579	$	36.00	each
Cylinders, Stored 60 days (hold cylinders)	$	36.00	each
Splitting TensileStrength, 6X12 Cylinders, ASTM C 496	$	90.00	each
Unit Weight of Concrete Cylinders, ASTM C 567	$	72.00	each
Unit Weight of Lightweight Insulating Concrete, ASTM C 495	$	72.00	each
Compression Test of Lightweight Insulating Concrete, ASTM C 495	$	72.00	each
Flexural Strength of Concrete, ASTM C 78	$	171.00	each
Shotcrete Pre-Production Panel Evaluation, Up to 12" Thick	$	900.00	each
Shotcrete Pre-Production Panel Evaluation, 12" to 24" Thick	$	1,350.00	each
Shotcrete Panel Core Compression Test, ASTM C 42	$	108.00	each
Chloride Ion Content, AASHTO T260	$	180.00	each
SOIL MECHANICS		**UNIT RATE***	**UNIT**
Moisture/Density Curve			
Standard Proctor ASTM D 698	$	193.50	each
Modified Proctor ASTM D 1557	$	193.50	each
Checkpoint (ASTM or Caltrans)	$	130.50	each
California Impact, CT 216	$	279.00	each
Rock Correction for Oversize Material, ASTM D4718/CT216	$	90.00	each
Sieve Analysis			
Bulk Sample Gradation, ASTM C 136/C117/CT202	$	162.00	each
Material Finer than #200 Sieve, ASTM C 117	$	189.00	each
Soil Mechanics			
Soils Classification, ASTM D 2487	$	315.00	each
"R" Value, ASTM D 2844/CT 301	$	360.00	each
Sand Equivalent, ASTM D 2419/CT 217	$	117.00	each
Liquid Limit, Plastic Limit, & P.I. Atterberg Limits ASTM D4318	$	153.00	each
California Bearing Ratio, 1 pt. (ASTM D1883)	$	202.50	each
California Bearing Ratio, 3 pt. (ASTM D1883)	$	472.50	each
California Bearing Ratio, 3 pt. (ASTM D1883) w/ 96 hour soak	$	495.00	each
Moisture-Density Sample Tubes ASTM D2937	$	58.50	each
AGGREGATES		**UNIT RATE***	**UNIT**
Sieve Analysis, Bulk Sample Gradation (Coarse & Fine), ASTM C136/C117/CT202	$	162.00	each
Sieve Analysis, Material Finer than #200 Sieve, ASTM C 117/CT202	$	76.50	each
Sieve Analysis, Coarse Agg (3" to #4), ASTM C136/CT202	$	144.00	each
Sieve Analysis, Fine Agg (#4 to #200), ASTM C136/CT202	$	144.00	each
Specific Gravity (Coarse), ASTM C 127/CT 206	$	117.00	each
Specific Gravity (Fine), ASTM C 128/CT 207	$	135.00	each
Absorption, Coarse Agg or Fine Agg , ASTM C 127/ASTM C 128	$	90.00	each
Organic Impurities in Concrete Sand, ASTM C 40/ CT213	$	90.00	each
L.A. Rattler, ASTM C 131 or C535/CT 211 (500 rev)	$	225.00	each
Clay Lumps & Friable Particles ASTM C142	$	135.00	each
Fractured Particles in Coarse Agg ASTM D5821	$	148.50	each
Lightweight Particles in Aggregate ASTM C123	$	117.00	each
Staining of Lightweight Aggregate ASTM C641	$	225.00	each

* Based on standard turnaround times.
Rush tests are an additional 50%.

CONSOLIDATED ENGINEERING
LABORATORIES

Sulfate Soundness (per sieve size), ASTM C 88	$	135.00	each
Unit Weight of Aggregates, ASTM C 29	$	90.00	each
% Crushed Particles, CT 205	$	225.00	each
Cleanness Value, CT 227	$	135.00	each
Sand Equivalent, ASTM D 2419/CT 217	$	117.00	each
Durability Index (Coarse or Fine Agg) ASTM D 3744/CT 229	$	162.00	each
Moisture Content of Aggregate ASTM C566	$	45.00	each
Potential Alkali Reactivity of Aggregates ASTM C1260	$	855.00	each
C33 Coarse Aggregate Qualification Testing (ASTM C33)	$	3,060.00	each
C33 Fine Aggregate Qualification Testing (ASTM C33)	$	2,790.00	each
HOT MIX ASPHALT (HMA)		**UNIT RATE***	**UNIT**
Bulk Sp. Gravity of Compacted HMA (Plant Mix) ASTM D2726/ CT 304, CT308	$	162.00	each
Bulk Sp. Gravity of Compacted HMA (Lab Mix) ASTM D2726/ CT 304, CT308	$	135.00	each
Theoretical Max Spec. Gravity (Rice Density) ASTM D2041/ CT 309	$	148.50	each
Stabilometer Value including Compaction, ASTM D1560/ CT 366, per point	$	180.00	each
Asphalt Content (Ignition Oven Method) ASTM D 6307/ CT382	$	171.00	each
Ignition Oven Calibration Factor ASTM D6307/ CT382	$	243.00	each
Asphalt Content (Solvent Extraction Method) ASTM D2172	$	225.00	each
Sieve Analysis of Extracted Aggregate, ASTM D5444/CT 202	$	153.00	each
Caltrans Complete HMA Tests (Rice or BSG, S-Value, Ignition, Extracted Gradation)	$	855.00	each
Marshall Compaction (Lab Mix), set of 3, ASTM D 6926	$	346.50	each
Marshall Compaction (Plant Mix), set of 3, ASTM D 6926	$	243.00	each
Marshall Flow and Stability, per point, ASTM D 6926	$	76.50	each
Effect of Moisture on AC (Tensile Strength Ratio) ASTM D4867/ CT 371	$	1,620.00	each
Swell of Bituminous Mixtures, CT 304/305	$	202.50	each
ASPHALTIC CEMENT		**UNIT RATE***	**UNIT**
Penetration of Bituminous Materials at 77°F, ASTM D5/AASHTO T49	$	63.90	each
Penetration of Bituminous Materials at 32°F to 158°F, ASTM D 5/AASHTO T49	$	94.50	each
Kinematic Viscosity of Asphalt, ASTM D 2170/AASHTO T201	$	153.00	each
Absolute Viscosity of Asphalt, ASTM D2170/AASHTO T201	$	153.00	each
Viscosity (Asphalt Institute Method)	$	175.50	each
Rolling Thin Film Test, ASTM 2872/Cal 346/AASHTO T240	$	162.00	each
Residue by Evaporation, ASTM D244/AASHTO T59	$	198.00	each
Extraction and Recovery, ASTM D2172/ASTM D 1856	$	765.00	each
MASONRY		**UNIT RATE***	**UNIT**
Concrete Blocks			
Compression, Gross Area, ASTM C 140	$	99.00	each
Compression, Gross Area, Unusual Shape, ASTM C 67	$	99.00	each
Compression, Net Area, ASTM C 140	$	90.00	each
Absorption and Moisture, ASTM C 140	$	135.00	each
Linear Shrinkage ASTM C 426	$	144.00	each
Dimensional Measurement of Masonry Units ASTM C 140	$	58.50	each
Bricks			
Absorption, with saturation Coefficient, ASTM C 67	$	99.00	each
Compression, ASTM C 67	$	76.50	each
Modulus of Rupture, ASTM C 67	$	36.00	each

* Based on standard turnaround times.
Rush tests are an additional 50%.

CONSOLIDATED ENGINEERING
LABORATORIES

Grout			
Compression, Grout Prisms, ASTM C 1019	$	16.00	each
Compression, Mortar Cylinders, ASTM C 780	$	16.00	each
Compression, Composite Prisms, ASTM C 1314	$	45.00	each
Compression, Masonry Core, ASTM C 140	$	67.50	each
Shear, Masonry Core, CCR Title 24	$	90.00	each
Mortar Molds, ASTM C 470	$	5.85	each
REINFORCING STEEL - ASTM A 615/A706		**UNIT RATE***	**UNIT**
Tensile Strength and Bend Test			
Samples, Size #3 - #10	$	90.00	each
Samples, Size #11	$	126.00	each
Samples, Size #14	$	315.00	each
Samples, Size #18 (Full Section)	$	495.00	each
REINFORCING STEEL - ASTM A 615/A706		**UNIT RATE***	**UNIT**
Tensile Strength and Bend Test			
Samples, Size #3 - #10	$	90.00	each
Samples, Size #11	$	126.00	each
Samples, Size #14	$	315.00	each
Samples, Size #18 (Full Section)	$	495.00	each
PRESTRESSING STEEL - ASTM A 416		**UNIT RATE***	**UNIT**
Uncoated 7 Wire Strand, 1/4" to 1/2"			
Yield Strength, Breaking Strength, and Elongation (Note: for Vinyl Coated Strands, (add $ 45.00 per test; for Modulus of Elasticity, add $ 45.00 per test)	$	270.00	each
Breaking Strength Only	$	175.50	each
STRUCTURAL STEEL (mild steel not over one inch thick)		**UNIT RATE***	**UNIT**
Tensile Strength, ASTM A 370 (test only)			
Samples, Under 1-1/2 square inch in cross section	$	112.50	each
Samples, 1-1/2 square inch and over in cross section	$	157.50	each
Chemical Analysis	$	99.00	each
Bending	$	76.50	each
Anchor Bolts, ASTM F1554, tensile	$	180.00	each
High Strength Bolts, Nuts, and Washers, ASTM A 325, A 490, A 449			
Bolt Assembly Test	$	234.00	each
Bolts Proof Load and Ultimate	$	99.00	each
Nuts Proof Load	$	54.00	each
Hardness (Rockwell)	$	27.00	each
WELDMENT TESTING (mild steel not over one inch thick)		**UNIT RATE***	**UNIT**
Transverse Tensile	$	108.00	each
Transverse Side Bend	$	72.00	each
Transverse Root and Face Bend	$	72.00	each
Macroetch	$	72.00	each
0.505" Tensile Specimen	$	112.50	each
Charpy V-Notch Specimen		Quotation on Request	
Preparation of WPS, PQR, or Welder Certificate	$	112.50	each
NONDESTRUCTIVE TESTING		**UNIT RATE**	**UNIT**
Radiography			
Radiographic Testing-Weld Procedure Qualification (physical testing not included)	$	495.00	each

* Based on standard turnaround times.
Rush tests are an additional 50%.

CONSOLIDATED ENGINEERING
LABORATORIES

Consultation	$	117.00	hour
One-Person Crew	$	117.00	hour
Film	$	18.00	ea
Magnetic Particle Level III (ASNT)	$	117.00	hour
Magnetic Particle Level II (ASNT)	$	97.20	hour
Ultrasonic Level III (ASNT)	$	117.00	hour
Ultrasonic Level II (ASNT)	$	97.20	hour
Dye Penetrant Level III (ASNT)	$	117.00	hour
Dye Penetrant Level II (ASNT)	$	97.20	hour
ROOFING		**UNIT RATE***	**UNIT**
Ply Count and Asphalt by Difference, ASTM D 2829	$	135.00	each
Weight Analysis, ASTM D 2829	$	72.00	each
FIREPROOFING		**UNIT RATE***	**UNIT**
Density of Sprayed on Fireproofing, ASTM E 605/UBC 43-8	$	67.50	each
Cohesion/Adhesion, ASTM E 736	$	67.50	each
FIRE/LIFE SAFETY SYSTEMS		**UNIT RATE***	**UNIT**
Fire/Life Safety Systems Inspection	$	97.20	hour
Mechanical Engineer	$	220.50	hour
Staff Engineer	$	162.00	hour
Final Affidavit (Request 6 Working Days Advance Notice)	Quotation on Request		
GEOTEXTILE FABRIC		**UNIT RATE***	**UNIT**
Tensile Strength by Grab Method	$	333.00	each
Puncture Resistance, Index, ASTM D 4833	$	228.60	each
Trapezoidal Tear	$	252.90	each
Mass Per Unit Area, ASTM D 3776	$	169.20	each
Simulated Asphalt Retention, ASTM D 4830	$	416.70	each
Unit Weight Analysis, ASTM S 2329	$	72.00	each
Ply Count and Void Analysis, ASTM D 2329	$	135.00	each
CEMENT		**UNIT RATE***	**UNIT**
Storage of Grab Sample, 60 days	$	19.80	each
Cement Content of Hardened Concrete, ASTM C 1084	$	2,214.00	each
GFRC PANEL TEST		**UNIT RATE***	**UNIT**
Flexural Testing, per P.C.I Recommended Practice	$	63.90	each
Pullout Testing of Anchors, per P.C.I. Recommended Practice	$	104.40	each
Fiberwrap Testing (ASTM D3039)	$	549.00	set
SPECIALTY GEOTECHNICAL TESTING		**UNIT RATE**	**UNIT**
Sieve Analysis, Minus #200 by Wash ASTM D1140	$	72.00	each
Consolidation (ASTM D2435, D4546)	$	162.00	each
Time-Consolidation (ASTM D2435)	$	72.00	each
Collapse/Swell (ASTM D4546)	$	85.50	each
Unconfined Compressive Strength (ASTM D2166)	$	99.00	each
Direct Shear (3 pt.)	$	900.00	each
California Bearing Ratio, 1 pt. (ASTM D1883)	$	225.00	each
California Bearing Ratio, 3 pt. (ASTM D1883)	$	540.00	each
Water Soluble Sulfate	$	50.40	each
pH (ASTM D4972)	$	67.50	each
Lab Resistivity	$	83.70	each

* Based on standard turnaround times.
Rush tests are an additional 50%.

CONSOLIDATED ENGINEERING
LABORATORIES

MISCELLANEOUS GEOTECHNICAL CHARGES		UNIT RATE	UNIT
Vehicle Charges (Over 40-Mile Radius)			
Truck, 2-Wheel Drive	$	0.50	mile
Truck, 4-Wheel Drive	$	0.60	mile
All Other Direct Project Expenses (such as contract drilling and backhoe services, special equipment rental, commercial travel, protective clothing, shipping, etc.)			Cost + 15%
Clerical Services	$	70.20	hour
MISCELLANEOUS TESTS & INSPECTIONS		**UNIT RATE**	**UNIT**
Calibration of Hydraulic Rams	$	225.00	each
Universal Testing Machine with Technician	$	247.50	hour
Instron Testing Machine with Technician	$	247.50	hour
Windsor Test Probes		Quotation on Request	
Weld Procedure Review	$	100.00	each
Expert Witness	$	3,000.00	day
BASIS OF CHARGES		**UNIT RATE**	**UNIT**
The proposed unit rates will be in effect through July 31, 2018. Thereafter, the unit rates are subject to an annual increase of four percent (4%) per year to mitigate the annual operating cost increases.			
Work Over 8 Hours Per Day		Time and One-Half	
Work Over 12 Hours, Monday through Friday		Double Time	
Work on Saturdays		Time and One-Half	
Work Over 8 Hours on Saturday		Double Time	
Work on Sundays/Holidays		Double Time	
Swing or Graveyard Shift Premium	$	12.50	hour
Work from 0 to 4 Hours		4-Hour Minimum Billing	
Work from 4 to 8 Hours		8-Hour Minimum Billing	
Show-Up Time		2-Hour Minimum Billing	
Sample Pick-Up	$	16.00	trip
Premium Sample Pick-Up (after 4 PM, before 5 AM, Weekends and Holidays)		2 x Sample Pick-Up Rate	
Trip Charge	$	100.00	trip
Laboratory Testing - Rush Fee		Add 50% to Testing Cost	
Technician with Nuclear Gauge		Portal-to-Portal	
Final Affidavit per each Applicable Permit (Request 6 working days in advance)	$	400.00	each
DSA Interim Verified Reports	$	150.00	each
Extra Copies (Over 4 per Issue Date) of Inspection Reports and Final Affidavit	$	20.00	each
Reports on CD	$	150.00	each
Project Engineering and Management		5% of Fees	
Credit Card Payment of Fees		2.5% Premium	
Reimbursables		Cost + 15%	
QA/QC Plan Written Procedures		Quotation on Request	
Out of Area Services (Beyond 40-Mile Radius)		As Listed Below:	
Travel Time		Basic Hourly Rate	
Mileage	$	0.60	mile
Per-diem, Including Lodging	$	120.00	day

* Based on standard turnaround times.
Rush tests are an additional 50%.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
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AND
QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABORATORIES

EXHIBIT C

INSURANCE REQUIREMENTS

INSURANCE COVERAGE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate
   $2,000,000 Products/Completed Operations Aggregate
   $1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars ($1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars ($2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars ($1,000,000) policy limit Bodily Injury by disease, one million dollars ($1,000,000) each accident/Bodily Injury and one million dollars ($1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the

Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

   b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.
City of Santa Clara Electric Department
P.O. Box 100085 – S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
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CITY OF SANTA CLARA, CALIFORNIA,
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QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABORATORIES

EXHIBIT D

ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA

Termination of Agreement for Certain Acts.

A. The City may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:

1. If a Contractor[1] does any of the following:

   a. Is convicted[2] of operating a business in violation of any Federal, State or local law or regulation;

   b. Is convicted of a crime punishable as a felony involving dishonesty[3];

   c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or, (3) performing a public contract or subcontract;

   d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a City contractor or subcontractor; and/or,

   e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.

---

[1] For purposes of this Agreement, the word "Consultant" (whether a person or a legal entity) also refers to "Contractor" and means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

[2] For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

[3] As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

2. If fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with the Contractor can be imputed to the Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

B. The City may also terminate this Agreement in the event any one or more of the following occurs:

1. The City determines that Contractor no longer has the financial capability[4] or business experience[5] to perform the terms of, or operate under, this Agreement; or,

2. If City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, Contractor's failure to maintain a required State issued license, failure to obtain a City business license (if applicable) or failure to provide and maintain bonds and/or insurance policies required under this Agreement.

C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Contractor may appeal the City's action to the City Council by filing a written request with the City Clerk within ten (10) days of the notice given by City to have the matter heard. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

---

[4] Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code (11 U.S.C.), as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

[5] Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
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EXHIBIT E

AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS

I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Exhibit D. I have the authority to make these representations on my own behalf or on behalf of the legal entity identified herein. I have examined appropriate business records, and I have made appropriate inquiry of those individuals potentially included within the definition of "Contractor" contained in Ethical Standards at footnote 1.

Based on my review of the appropriate documents and my good-faith review of the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to said "Contractor" category [i.e., owner or co-owner of a sole proprietorship, general partner, person who controls or has power to control a business entity, etc.] has been convicted of any one or more of the crimes identified in the Ethical Standards within the past five (5) years.

The above assertions are true and correct and are made under penalty of perjury under the laws of the State of California.

QUALITY ASSURANCE ENGINEERING, INC. DBA
CONSOLIDATED ENGINEERING LABORATORIES

A California corporation

By: Charlie Brice

Name: CHARLIE BRICE

Title: Chief Financial Officer

NOTARY'S ACKNOWLEDGMENT TO BE ATTACHED

Please execute the affidavit and attach a notary public's acknowledgment of execution of the affidavit by the signatory. If the affidavit is on behalf of a corporation, partnership, or other legal entity, the entity's complete legal name and the title of the person signing on behalf of the legal entity shall appear above. Written evidence of the authority of the person executing this affidavit on behalf of a corporation, partnership, joint venture, or any other legal entity, other than a sole proprietorship, shall be attached.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
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AND
QUALITY ASSURANCE ENGINEERING, INC. DBA CONSOLIDATED ENGINEERING LABORATORIES

EXHIBIT F

MILESTONE SCHEDULE

(Not Applicable)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Contra Costa)

On Sept 12, 2017 before me, Tracy Hooper, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Charlie Brice
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

TRACY HOOPER
Commission # 2071721
Notary Public - California
Contra Costa County
My Comm. Expires Jul 15, 2018

Signature Tracy Hooper
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: 10-333387W Exhibit E Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____

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AMENDMENT NO. 1
CITY OF SANTA CLARA CONTRACT NO. 2004D
ELECTRIC UTILITY SUBSTRUCTURE AND AERIAL FIBER OPTIC CABLE
MASTER CONSTRUCTION AGREEMENT
DOCUMENT 00520
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA AND DALEO, INC.,

PREAMBLE

This agreement (“Amendment No. 1”) is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Daleo, Inc., a California corporation, with its primary business address located at 550 E Luchessa Avenue, Gilroy, CA ("Contractor"). City and Contractor may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

A. The Parties previously entered into an agreement entitled “City of Santa Clara Contract No. 2004D Electric Utility Substructure and Aerial Fiber Optic Cable Master Construction Agreement Document 00520 dated on or about August 11, 2017 (Agreement);

B. The Agreement and its amendments are collectively referred to herein as the “Agreement as Amended”; and

C. The Parties entered into the Agreement as Amended for the purpose of having Contractor provide the installation and testing of underground power utility substructures and the Parties now wish to amend the Agreement as Amended to clarify the Contract Time and not to exceed value of the Agreement.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

1. Document 00520 Article 3. “Contract Time and Liquidated Damages” Section 3.1 is hereby amended to read as follows:

   Contractor shall commence Work at the Site on the date established in each Call Order (Document 00520), as executed. The City reserves the right to modify or alter the Commencement Date of the Work due to the need to complete other City provided work at the Site. Contractor shall complete the Work following the schedule provided in each Call Order.

   City shall not issue Call Orders after July 31, 2021.

2. Document 00520 Article 4. “Total Contract Price” is hereby amended to read as follows:

   City shall pay Contractor for the completion of the Work performed under each Call Order subsequently executed by the Parties for work to be performed, plus any change orders, liquidated damages for each Call Order. The Total Contract Price shall not exceed $6,000,000.

3. Document 00311 – Schedule of Unit Bid Prices is amended and replaced with Document 00311 – Schedule of Unit Bid Prices Effective September 1, 2020

4. Document 00312 – Daily Hourly Bid Schedule is amended and replaced with Document 00312 – Daily Hourly Bid Schedule Effective September 1, 2020. Notes to this Daily Hourly Bid Schedule shall supersede terms of Document 00301 “Unit Bid Pricing Instructions to Bidders” where there is a conflict (overtime and equipment rental hourly rates.

5. Document 00521 – Call Order No. ___ (Sample) is amended and replaced with Document 00521 – Call Order No. ___ (Sample) Updated September 1, 2020

6. Document 00522 – Change to Call Order No. ___ (Sample) is incorporated into the Agreement.

7. Except as set forth herein, all other terms and conditions of the Agreement as Amended shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form: Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

DALEO, INC.
a California corporation

Dated: _____
By (Signature): _____
Name: _____
Title: _____
Principal Place of Business Address: _____
Email Address: _____
Telephone: ( ) _____
Fax: ( ) _____

"CONTRACTOR"

DOCUMENT 00520

AGREEMENT

City of Santa Clara Contract No. 2004D
Electric Utility Substructure and Aerial Fiber Optic Cable Master Construction Agreement

PREAMBLE

This Agreement ("Agreement") is made and entered into on this 11 day of August 2017 (the "Effective Date") by and between Daleo, Inc., a California corporation, with its primary business address located at 550 E Luchessa Avenue, Gilroy, CA 95020 ("Contractor"), and the City of Santa Clara, California, a chartered California municipal corporation, with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). City and Contractor may be referred to herein individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

The Parties agree as follows:

AGREEMENT PROVISIONS

Article 1. Work

1.1 Contractor shall complete all Work specified in the Contract Documents, in accordance with the Specifications, Drawings, and all other terms and conditions included in the Contract Documents.

Article 2. Agency and Notices to City

2.1 City has designated the City Engineer or his/her designee to act as City's Representative(s), who will represent City in performing City's duties and responsibilities and exercising City's rights and authorities in Contract Documents. City may change the individual(s) acting as City's Representative(s), or delegate one or more specific functions to one or more specific City's Representatives, including without limitation engineering, architectural, inspection and general administrative functions, at any time with notice and without liability to Contractor. Each City Representative is the beneficiary of all Contractor obligations to City, including without limitation, all releases and indemnities.

2.2 City has designated the City Engineer or his/her designee to act as Project Manager. City may assign all or part of the City Representative's rights, responsibilities and duties to Construction Manager. City may change the identity of the Construction Manager at any time with notice and without liability to Contractor.

2.3 City has designated itself to act as Consulting Engineers. City may change the identity of the Consulting Engineer(s) at any time with notice and without liability to Contractor.

2.4 All notices or demands to City under the Contract Documents shall be delivered to the City's Representative at 1500 Warburton Avenue, Santa Clara, California 95050, or to such other person(s) and address(es) as City shall provide to Contractor.

Article 3. Contract Time and Liquidated Damages

3.1 Contractor shall commence Work at the Site on the date established in Document 00550, Notice to Proceed. The City reserves the right to modify or alter the Commencement Date of the Work due to the need to complete other City provided work at the Site. Contractor shall complete the Work following the schedule provided in each Call Order.

3.2 Liquidated Damages.

City and Contractor recognize that time is of the essence of this Agreement and that City will suffer financial loss in the form of lost revenues, contract administration expenses (including project management and consultants' expenses), delay and loss of public use, if all or any part of the Work is not completed within the time specified in paragraph 3.1 above plus any extensions thereof allowed in accordance with the Contract Documents. Consistent with Article 15 of Document 00700, General Conditions, Contractor and City agree that because of the nature of the Project, it would be impractical or extremely difficult to fix the amount of actual damages incurred by City because of a delay in completion of all or any part of the Work.

Accordingly, City and Contractor agree that as liquidated damages for delay, Contractor shall pay City:

3.2.1 $1,500.00 for each Day that expires after the time specified herein for Contractor to achieve Substantial Completion, until the Work reaches Substantial Completion.

3.2.2 $1,500.00 for each Day that expires after the time specified herein for Contractor to achieve Final Completion, until the Work reaches Final Completion.

These measures of liquidated damages shall apply cumulatively and shall be presumed to be, except as provided herein, the damages suffered by City resulting from the delay in completion of the Work.

3.3 Liquidated damages for delay shall only cover administrative, overhead, interest on bonds, and general loss of public use damages suffered by City as a result of delay. Liquidated damages shall not cover the cost of completion of the Work, damages resulting from defective work, lost revenues or costs of substitute facilities, or damages suffered by others who then seek to recover their damages from City (for example, delay claims of other contractors, subcontractors, tenants, or other third-parties), and defense costs thereof.

Article 4. Total Contract Price

4.1 City shall pay Contractor for the completion of the Work performed under each Call Order subsequently executed by the Parties for work to be performed, plus any change orders, liquidated damages for each Call Order. The estimated value of this Agreement is anticipated to average of $150,000.00 to $2,000,000.00 per year.

4.2 The Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by Contractor, its subcontractors, subconsultants, architects, engineers, and vendors or otherwise arising out of Contractor's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA, and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

Article 5. Contractor's Representations and Warranties

In order to induce City to enter into this Agreement, Contractor makes the following representations and warranties:

5.1 Contractor has visited the Site and has examined thoroughly and understood the nature and extent of the Contract Documents, Work, Site, locality, actual conditions, as-built conditions, and all local conditions and federal, state and local laws and regulations that in any manner may affect cost, progress, performance or furnishing of Work or which relate to any aspect of the design and the means, methods, techniques, sequences or procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.

5.2 Contractor has examined thoroughly and understood all reports of exploration and tests of subsurface conditions, as-built drawings, drawings, product specifications or reports, available for Bidding purposes, of physical conditions, including Underground Facilities, which are identified in Document 00320, Geotechnical Data and Existing Conditions, which may be apparent at the Site, or which may appear in the Drawings and accepts the determination set forth in these documents and Document 00700, General Conditions of the limited extent of the information contained in these documents and materials upon which the Contractor may be entitled to rely. Contractor agrees that except for the information so identified, Contractor does not and shall not rely on any other information contained in these documents, reports and drawings.

5.3 Contractor has conducted or obtained and has understood all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in Section 5.2 of this Document 00520) that pertain to the subsurface conditions, as-built conditions, Underground Facilities and all other physical conditions at or contiguous to the Site or otherwise that may affect the cost, progress, performance or furnishing of Work, as Contractor considers necessary for the performance or furnishing of Work at the Contract Sum, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Document 00700, General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by Contractor for such purposes.

5.4 Contractor has correlated its knowledge and the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

5.5 Contractor has given City prompt written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in or among the Contract Documents and as-built drawings and actual conditions and the written resolution thereof through Addenda issued by City is acceptable to Contractor.

5.6 Contractor is duly organized, existing and in good standing under applicable state law, and is duly qualified to conduct business in the State of California.

5.7 Contractor has duly authorized the execution, delivery and performance of this Agreement, the other Contract Documents and the Work to be performed herein. The Contract Documents do not violate or create a default under any instrument, agreement, order or decree binding on Contractor.

Article 6. Contract Documents

6.1 Contract Documents, which comprise the entire agreement between the City and Contractor concerning the Work, consist of the following documents, including all changes, Addenda and Modifications thereto:

CONTRACT DOCUMENTS

Division 0 - GENERAL PROVISIONS.
Division 1 - GENERAL REQUIREMENTS.
Division 2 - TECHNICAL PROVISIONS.
Division 3 and above - SPECIAL PROVISIONS.
Plans

6.2 There are no Contract Documents other than those listed above in this Article 6. The information supplied under Document 00320, Geotechnical Data and Existing Conditions, is not part of the Contract Documents. The Contract Documents may only be amended, modified or supplemented as provided in Document 00700, General Conditions.

Article 7. Miscellaneous

7.1 Terms used in this Agreement are defined in Document 00700, General Conditions and Section 00050, References and Definitions, and will have the meaning indicated therein.

7.2 It is understood and agreed that in no instance is any person, signing this Agreement for or on behalf of City or acting as an employee, agent or representative of City, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of the City is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

7.3 Contractor shall not assign any portion of the Contract Documents, and may subcontract portions of the Contract Documents only in compliance with the Subcontractor Listing Law, California Public Contracting Code §4100 et seq.

7.4 The Contract Sum includes all allowances (if any).

7.5 In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, Contractor or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time City tenders final payment to Contractor, without further acknowledgment by the parties.

7.6 Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents, and are on file in the City Clerk's Office, and shall be made available to any interested party on request. Pursuant to Section 1861 of the Labor Code, Contractor represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Contractor shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

7.7 Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).

7.8 This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Santa Clara, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in Santa Clara County. Both parties hereby waive their rights under California Code of Civil Procedure Section 394 to file a motion to transfer any action or proceeding arising out of the Contract Documents to another venue. Contractor accepts the Claims Procedure in Document 00700, Article 12, established under the California Government Code, Title 1, Division 3.6, Part 3, Chapter 5.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

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

Approved as to form:

BRIAN DOYLE
Interim City Attorney

RAJEEV BATRA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: 1+(408) 615-2210
Fax: 1+(408) 241-0347

Attest:

ROD DIRIDON, JR.
City Clerk

"City"

DALEO, INC.
a California Corporation

By: _____
(Signature of Person executing the Agreement on behalf of Contractor)

David Levisay
(Please Print or Type Name)

Title: President

Local Address: 550 E Luchessa Avenue
Gilroy, CA 95020

Telephone: (408) 846-9621
Fax: (408) 846-9611

"Contractor"

END OF DOCUMENT

DOCUMENT 00311

SCHEDULE OF UNIT BID PRICES

Cover Sheet

ELECTRIC UTILITY SUBSTRUCTURE AND AERIAL FIBER OPTIC CABLE MASTER CONSTRUCTION AGREEMENT

Number	Trench Dirt and Place Conduit	Unit	Unit Schedule A		Unit Schedule B	
			QTY	Price	QTY	Price
100	Trench Dirt (up to 40" Depth)	LFT	1-100	55.00	101+	37.50
101	Trench Dirt (up to 60" Depth)	LFT	1-100	78.00	101+	47.50
110	Trench Manual (30" Depth)	LFT	1-20	68.00	21+	68.00
111	Trench Manual (40" Depth)	LFT	1-20	77.50	21+	77.50
112	Trench Manual (48" Depth)	LFT	1-20	87.50	21+	87.50
122	Place Owner-furnished Conduit(s) in trench bottom, per trench foot	TFT	1-100	12.00	101+	10.00
123	Place additional - Owner-furnished Conduit w/spacers, each new level, per trench foot	TFT	1-100	6.00	101+	6.00
Number	**Conventional/Directional/Core Bore**	**Unit**	**Schedule A**		**Schedule B**	
			QTY	Price	QTY	Price
200	Conventional Bore 1- 2"	FT	1-20	34.00	21+	34.00
201	Conventional Bore 1- 4"	FT	1-20	47.00	21+	47.00
220	Directional Bore 1- 2" HDPE	FT	1-200	73.50	201+	38.00
221	Directional Bore 2- 2" HDPE	FT	1-200	74.50	201+	39.00
222	Directional Bore 3- 2" HDPE	FT	1-200	75.50	201+	40.00
223	Directional Bore 4- 2" HDPE	FT	1-200	76.50	201+	41.00
224	Directional Bore 1- 4" PVC	FT	1-200	77.50	201+	42.00
225	Directional Bore 1-5" PVC	FT	1-200	80.00	201+	45.00
240	Core Bore up to 5" diameter	EA	1-5	400.00	6+	400.00
Number	**Place Facility**	**Unit**	**Schedule A**		**Schedule B**	
			QTY	Price	QTY	Price
300	Place in conduit or casing - 1 Owner-furnished locate wire	FT	1-500	1.00	501+	.85
301	Place in un-occupied conduit or casing - up-to-four Owner-furnished maxcell	FT	1-200	4.00	201+	2.50
302	Place in existing conduit or casing - up-to-four Owner-furnished innerduct	FT	1-200	5.00	201+	4.00
303	Place in Interior conduit, raceway or rack - Owner-furnished innerduct	FT	1-200	8.00	201+	7.00
310	Place up-to 1" Owner-furnished fiber into buildings.	FT	1-200	5.00	201+	4.00
311	Place in conduit, casing or maxcell - 1 Owner-furnished fiber optic cable	FT	1-200	4.00	201+	1.35
312	Place in occupied conduit or casing - 1 pull Owner-furnished maxcell	FT	1-200	3.00	201+	2.50
320	Remove up to 1" non working cable from Fiber Cable Plant.	FT	1-200	4.00	201+	3.00

350	Install Owner furnished 2-post 19 inch Rack in building	EA	1-5	500.00	6+	500.00
351	Install and Splice 24-port Owner furnished Patch Panel in rack	EA	1-5	1,200.00	6+	1,200.00
352	Install and Splice 48-port Owner furnished Patch Panel in rack	EA	1-5	1,500.00	6+	1,500.00
353	Install and Splice 72-port Owner furnished Patch Panel in rack	EA	1-5	1,700.00	6+	1,700.00
354	Install and Splice 96-port Owner furnished Patch Panel in rack	EA	1-5	2,000.00	6+	2,000.00
Number	**Place Facility**	**Unit**	**Schedule A**		**Schedule B**	
			QTY	**Price**	**QTY**	**Price**
400	Install Owner-furnished precast Primary Manhole per UG1000	FT	1-5	7,560.00	6+	7,560.00
400A	Install Owner-furnished 48"x48"x48" Manhole - Traffic Rated per UG 301	FT	1-5	5,400.00	6+	5,400.00
401	Install Owner-furnished precast 5'x10' Primary Switch Vault per UG1000	FT	1-5	7,560.00	6+	7,560.00
402	Install Owner-furnished precast 4'x6' Full Traffic Pullbox per UG1000	FT	1-5	4,200.00	6+	4,200.00
403	Install Owner-furnished precast 4'x6' Light Traffic Pullbox per UG1000	FT	1-5	4,200.00	6+	4,200.00
404	Install Owner-furnished 48"x48" Splice Box - Non Traffic per UG 1000	FT	1-5	2,100.00	6+	2,100.00
405	Install Owner-furnished 30"x60" Splice Box - Non Traffic per UG 1000	FT	1-5	1,200.00	6+	1,200.00
406	Install Owner-furnished 24"x36" Splice Box - Non Traffic per UG 1000	FT	1-5	600.00	6+	600.00
407	Install Owner-furnished 17"x30" Splice Box - Non Traffic per UG 1000	FT	1-5	250.00	6+	250.00
408	Install Single Phase Transformer Pad per UG1000	FT	1-5	3,750.00	6+	3,000.00
409	Install Three Phase Transformer Pad per UG1000	FT	1-5	4,200.00	6+	3,750.00
410	Furnish and Install Permamamt Barrier Pipe per UG1000	FT	1-5	300.00	6+	300.00
411	Furnish and Install Removable Barrier Pipe per UG1000	FT	1-5	390.00	6+	390.00
412	Install Street Light Foundation per UG 1000	FT	1-5	2,750.00	6+	1,350.00
Number	**Encasement and Backfill**	**Unit**	**Schedule A**		**Schedule B**	
			QTY	**Price**	**QTY**	**Price**
500	Concrete encasement	YD	1-9	350.00	10+	230.00
501	Slurry backfill up to 12" depth	YD	1-9	280.00	10+	230.00
502	Slurry backfill - each additional 6"	YD	1-9	280.00	10+	230.00

503	Sand backfill up to 12" depth	YD	1-5	120.00	6+	120.00
504	Sand backfill - each additional 6"	YD	1-5	120.00	6+	120.00
505	Import backfill up to 12" depth	YD	1-5	105.00	6+	105.00
506	Import backfill up - each additional 6"	YD	1-5	105.00	6+	105.00
510	Concrete Removal & Restoral up to 4" in depth	SQFT	1-100	28.75	101+	25.75
511	Concrete Removal & Restoral over 4" in depth, each additional two inches	SQFT	1-100	3.00	101+	3.00
512	Asphalt Removal & Restoral up to 4" depth	SQFT	1-200	42.50	201+	17.50
513	Asphalt Removal & Restoral over 4" depth, each additional two inches	SQFT	1-200	4.00	201+	4.00
514	Asphalt removal & restoral over concrete subsurface-up to 4" concrete	SQFT	1-200	47.50	201+	25.00
515	Asphalt removal & restoral over concrete subsurface-over 4" concrete - each additional two inches	SQFT	1-200	8.00	201+	8.00
520	Surface Restoration - sod	SQFT	1-100	8.00	101+	8.00
521	Surface Restoration - brick	SQFT	1-100	30.00	101+	25.00
522	Surface Restoration - decorative rock	YD	1-100	12.00	101+	10.00
523	Surface Restoration - decorative bark	YD	1-100	8.00	101+	6.00
Number	**Aerial**	**Unit**	**Schedule A**		**Schedule B**	
			QTY	**Price**	**QTY**	**Price**
710	Install Anchor - 8' Manta Rey	EA	1-5	600.00	6+	550.00
711	Install Anchor - 10' Bust Plate	EA	1-5	815.00	6+	750.00
712	Install Down guy - standard 10M	EA	1-5	67.00	6+	47.00
713	Install Sidewalk guy 10M	EA	1-5	285.00	6+	230.00
715	Install 1.25" aerial self supporting inner duct (MOD) e/w Mule Tape	FT	1-200	17.50	201+	15.00
716	Install 2" aerial self supporting inner duct (MOD) e/w Mule Tape	FT	1-200	20.00	201+	18.00
717	Place Aerial Squirrel Guard 1' to 2' Street side	FT	1-200	2.50	201+	2.25
718	Place Aerial Squirrel Guard 1' to 2' Utility easement	FT	1-200	4.00	201+	3.25
719	Remove Squirrel Guard	FT	1-200	3.00	201+	3.00
720	Install Fiber Optic Riser	EA	1-5	300.00	6+	300.00
723	F/O slack storage-strand or cable mounted	EA	1-5	350.00	6+	350.00

736	Extra high strength steel strand 1/4"	FT	1-500	4.50	501+	2.50
740	Install Owner-furnished ADSS fiber optic cable up to 1.0" dia	FT	1-1000	3.50	1001+	2.00
741	Install Owner-furnished ADSS fiber optic cable over 1.0" dia	FT	1-1000	3.50	1001+	2.00
750	Lash fiber optic cable or duct to strand	FT	1-1000	3.50	1001+	2.50
751	Overlash fiber optic cable or duct	FT	1-1000	4.00	1001+	2.75
Number	**Aerial strand and transfers**	**Unit**	**Schedule A**		**Schedule B**	
			QTY	**Price**	**QTY**	**Price**
752	Multiple strand bond	FT	1-5	23.50	6+	23.50
753	Vertical Ground	EA	1-5	150.00	6+	150.00
760	Cross Arm	EA	1-5	47.50	6+	47.50
761	Guard Arm Placement or Relocate	EA	1-5	150.00	6+	150.00
762	Double Guard Arm Placement or Relocate	EA	1-5	275.00	6+	275.00
763	Guard Arm Removal	EA	1-5	100.00	6+	100.00
764	Double Guard Arm Removal	EA	1-5	150.00	6+	150.00
765	Aerial Cable Wreckout (Rear Easment)	FT	1-1000	3.50	1001+	2.25
766	Aerial Cable Wreckout (Street Easment)	FT	1-1000	2.25	1001+	1.65
800	Move/transfer/remove down guy **or false dead end**	EA	1-5	85.00	6+	65.00
801	Move/transfer/remove sidewalk guy	EA	1-5	210.00	6+	185.00
802	Move/transfer O/H guy or vacant strand	EA	1-5	210.00	6+	185.00
803	Move/transfer cross arm	EA	1-5	250.00	6+	250.00
804	Move/transfer cable attachment or suspension strand	EA	1-5	175.00	6+	150.00
805	Move/transfer one drop wire	EA	1-5	45.00	6+	35.00
806	Move/transfer one insulator bracket on a pole	EA	1-5	100.00	6+	100.00

END OF DOCUMENT

DOCUMENT 00312

DAILY HOURLY BID SCHEDULE

SCHEDULE OF DAILY HOURLY RATES
Cover Sheet

ELECTRIC UTILITY SUBSTRUCTURE AND AERIAL FIBER OPTIC CABLE MASTER CONSTRUCTION AGREEMENT

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Number	Position Name	Rates		
		Daily	Hourly	Overtime
900	Foreman Aerial	984.00	123.00	173.00
901	Foreman Underground	944.00	118.00	167.00
902	Equipment Operator	900.00	112.50	159.50
903	Line Person Journeyman	944.00	118.00	167.00
904	Line Person Apprentice	792.00	99.00	137.50
905	Truck Driver	844.00	105.50	148.00
906	Mechanic	900.00	112.50	159.50
907	Laborer	688.00	86.00	106.00
908	Flagger	688.00	86.00	106.00
909	Journeyman Fiber Splicer	944.00	118.00	167.00
910	Apprentice Fiber Splicer	656.00	82.00	102.00
911	Crew, 2-Man Substructure	2,610.00	326.00	360.00
912	Crew, 4-Man Substructure	4,950.00	618.50	777.00
Number	**Vehicle Name**	**Rates**		
		Daily	**Hourly**	**Hourly**
930	Trencher - Ditchwitch 3700	162.00	27.00	
931	Backhoe - JD 410	276.00	46.00	
932	Trackhoe - 555 John Deere	680.00	85.00	
933	Utility Truck with Tools	162.00	27.00	
934	6 Wheel Dump	192.00	32.00	
935	10 Wheel Dump	240.00	40.00	
936	1 Ton Pickup	132.00	22.00	
937	Forklift - 8,000 lb.	216.00	27.00	

938	Aerial T-40C (or equivalent - 28 ft) with tools	344.00	43.00	
939	Bucket Truck - Splicing - 28 ft.	256.00	32.00	
940	Aerial Man Lift - 40 ft. straight, 2 wheel drive	320.00	40.00	
941	Water Truck - 1,800 ga.	192.00	32.00	
942	Truck - Digger Derrick with tools	282.00	47.00	
Number	***Equipment Name***			
950	Pole/Pipe Trailer	40.00	10.00	
951	Reel Trailer (all sizes)	40.00	10.00	
952	Loader - 930	336.00	56.00	
953	Tractor & Low Boy	282.00	47.00	
954	Concrete/Asphalt Cutting Tools	60.00	15.00	
955	Auger, Jacking Impaction	960.00	120.00	
956	Auger, Jacking Pushing	960.00	120.00	
957	Vibrating Tamper - 100 lb.	48.00	12.00	
958	Vibratory Roller - 48" Smooth	138.00	23.00	
959	Hammer, Hydro	144.00	18.00	
960	Air Compressor	126.00	21.00	
961	Hydro Vac	810.00	135.00	
962	Rodder	210.00	35.00	
963	Compactor - 18" Diesel Plate	72.00	12.00	
964	Directional Drill Rig - Ditch Witch JT 1720	840.00	140.00	
965	Mud Tank/Trailer	360.00	60.00	
966	Vacuum Trailer	162.00	27.00	

967	Street Sweepers - Laymore	180.00	30.00	
968	Arrow Board (each)	45.00	15.00	
969	Mini Excavator	162.00	27.00	
Number	***Tool Name***	***Rates***		
		Daily	***Hourly***	***Hourly***
980	Barricades (each)	5.00	2.00	
981	Barricades E/W Flasher (each)	10.00	3.00	
982	Warning Signs (each)	7.50	2.00	
983	Manhole Package (MH guard,Blower w/hose,pump,gas tester)	40.00	10.00	
984	**Tree Trimming**	2,610.00	326.00	
985	**Rod and Rope**	2,610.00	326.00	
	Note:			
	Trailer rates to be included with all equipment rates			

END OF DOCUMENT

DOCUMENT 00521

CALL ORDER NO._____(Sample)

For Electric Utility Substructure and Aerial Fiber Optic Cable Master Construction Agreement

Contract No. 2004D

The Parties to this Call Order No. ____ ("Contractor Call Order") agree that on this ____ day of _____ 201__, this Call Order is made pursuant to the terms of the Agreement between the Parties entitled, "Document 00520 Agreement for Electric Utility Substructure and Aerial Fiber Optic Cable Master Construction Agreement Project 2004D" ("Agreement') the terms of which are incorporated by this reference. This Call Order describes the Services to be provided to the City of Santa Clara, California ("City") by [INSERT CONTRACTOR'S NAME] ("Contractor"). **The attached Engineer's Plans and Drawings and accompanying Call Order Unit Price Spreadsheet(s) contain a complete description and cost basis of the Services to be performed under this Call Order and shall proceed starting _____.** In no event shall the amount paid to the Contractor for the Services provided to City by the Contractor under this Call Order, including all fees or pre-approved costs and/or expenses, exceed *spell out dollar amount [$INSERT NUMERIC DOLLAR AMOUNT), subject to budgetary appropriations and the terms of the Agreement.

The work will be completed within _____ days if it is not completed within _____ days of starting liquidated damages of $_____/day shall be assessed.

The Parties acknowledge and accept the terms and conditions of this Call Order as evidenced by the following signatures of their duly authorized representatives.

[INSERT CONTRACTOR'S NAME] A [INSERT STATE NAME] corporation	City of Santa Clara, California a chartered California municipal corporation
By: Title:	By: John C. Roukema Title: Director of Electric Utility
Address:	Address: 1500 Warburton Ave. Santa Clara, CA 95050
Telephone:	Telephone: (408) 615-6601
Fax:	Fax: (408) 249-0217
Dated:	Dated:

AMENDMENT NO. 1
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DOCUMENT MANAGEMENT TECHNOLOGY, LLC

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Document Management Technology, LLC a Nevada limited liability company, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. The Parties previously entered into an agreement entitled Agreement for the Performance of Services by and Between the City of Santa Clara, California, and Document Management Technology, LLC, dated September 5, 2017 (Agreement); and

B. The Parties entered into the Agreement for the purpose of having Contractor provide scanning into a TIFF or JPEG format, bookmark, link and highlighting for the contracts database, and the Parties now wish to amend the Agreement to increase the Schedule of Fees by $100,000 and increase the term to September 5, 2022.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

1. Section 5 of the Agreement, entitled "Term of Agreement" is amended to read as follows:

> Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on September 5, 2022.

2. Exhibit B of the Agreement, entitled “Fee Schedule” is amended to read as follows:

   In no event shall the amount billed to city by Contractor for services under this Agreement exceed two hundred thirty thousand dollars and zero cents ($230,000.00), subject to budget appropriations.

   DMT’s scanning rate - $30.00 per hour

   DMT’s document conversion, pdf creation and optimization; database manipulation rate, and all other requested tasks - $50.00 per hour

   Travel expenses are not included in the hourly rates and will be billed as actual expenses and are subject to the following:

   Unless approved in writing (e-mail acceptable) in advance, meals, lodging, and related Per Diem shall not exceed the rates outlined by United States General Services Administration (GSA) at: https://www.gsa.gov/travel-resources

   The City shall not reimburse local travel (within Santa Clara county).

3. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form: Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

DOCUMENT MANAGEMENT TECHNOLOGY, LLC
a Nevada limited liability company

Dated: _____

Name: MARY ALICE WEST
Title: Managing Partner
Principal Place of Business Address: 1805 Royal Birkdale Drive, Boulder City, NV 89005
Telephone: (702) 293-6487

"CONTRACTOR"

AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA, AND DOCUMENT MANAGEMENT TECHNOLOGY, LLC

PREAMBLE

This agreement for the performance of services ("Agreement") is by and between Document Management Technology, LLC, a limited liability company, with its principal place of business located at 1805 Royal Birkdale Drive, Boulder City, NV 89005 ("Contractor"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

A. City desires to secure professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services"; and

B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

AGREEMENT PROVISIONS

1. EMPLOYMENT OF CONTRACTOR.

City hereby employs Contractor to perform services set forth in this Agreement. To accomplish that end, City may assign a Project Manager to personally direct the Services to be provided by Contractor and will notify Contractor in writing of City's choice. City shall pay for all such materials and services provided which are consistent with the terms of this Agreement.

2. SERVICES TO BE PROVIDED.

Except as specified in this Agreement, Contractor shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as "Services") to satisfactorily complete the work required by City at his/her own risk and expense. Services to be provided to City are

more fully described in Exhibit A entitled "SCOPE OF SERVICES." All of the exhibits referenced in this Agreement are attached and are incorporated by this reference.

3. COMMENCEMENT AND COMPLETION OF SERVICES.

A. Contractor shall begin providing the services under the requirements of this Agreement upon receipt of written Notice to Proceed from City. Such notice shall be deemed to have occurred three (3) calendar days after it has been deposited in the regular United States mail. Contractor shall complete the Services within the time limits set forth in the Scope of Services or as mutually determined in writing by the Parties.

B. When City determines that Contractor has satisfactorily completed the Services, City shall give Contractor written Notice of Final Acceptance. Upon receipt of such notice, Contractor shall not incur any further costs under this Agreement. Contractor may request this determination of completion be made when, in its opinion, the Services have been satisfactorily completed. If so requested by the contractor, City shall make this determination within fourteen (14) days of its receipt of such request.

4. QUALIFICATIONS OF CONTRACTOR - STANDARD OF WORKMANSHIP.

Contractor represents and maintains that it has the necessary expertise in the professional calling necessary to perform services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

The plans, designs, specifications, estimates, calculations, reports and other documents furnished under Exhibit A shall be of a quality acceptable to City. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well organized, that is technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by City for similar projects.

5. TERM OF AGREEMENT.

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate three (3) years from the Effective Date.

6. MONITORING OF SERVICES.

City may monitor the Services performed under this Agreement to determine whether Contractor's operation conforms to City policy and to the terms of this Agreement. City may also monitor the Services to be performed to determine whether financial operations are conducted in accord with applicable City, county, state, and federal requirements. If

any action of Contractor constitutes a breach, City may terminate this Agreement pursuant to the provisions described herein.

7. WARRANTY.

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect, and shall conform to the specifications, requirements, and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate, or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

8. PERFORMANCE OF SERVICES.

Contractor shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by City. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it. Contractor will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

9. BUSINESS TAX LICENSE REQUIRED.

Contractor must comply with Santa Clara City Code section 3.40.060, as that section may be amended from time to time or renumbered, which requires that any person who transacts or carries on any business in the City of Santa Clara pay business license tax to the City. A business tax certificate may be obtained by completing the Business Tax Affidavit Form and paying the applicable fee at the Santa Clara City Hall Municipal Services Division.

10. RESPONSIBILITY OF CONTRACTOR.

Contractor shall be responsible for the professional quality, technical accuracy and coordination of the Services furnished by it under this Agreement. Neither City's review, acceptance, nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and Contractor shall be and remain liable to City in accordance with applicable law for all damages to City caused by Contractor negligent performance of any of the Services furnished under this Agreement.

Any acceptance by City of plans, specifications, construction contract documents, reports, diagrams, maps and other material prepared by Contractor shall not in any respect absolve Contractor from the responsibility Contractor has in accordance with customary standards of good professional practice in compliance with applicable federal, state, county, and/or municipal laws, ordinances, regulations, rules and orders.

11. COMPENSATION AND PAYMENT.

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and services rendered by Contractor at the rate per hour for labor and cost per unit for materials as outlined in Exhibit B, entitled "SCHEDULE OF FEES."

Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month, subject to verification by City. City will pay Contractor within thirty (30) days of City's receipt of invoice.

12. 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 thirty (30) calendar days after a Party receives such notice. After either Party terminates the Agreement, Contractor shall discontinue further services as of the effective date of termination, and City shall pay Contractor for all Services satisfactorily performed up to such date.

13. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

14. NO THIRD PARTY BENEFICIARY.

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

15. INDEPENDENT CONTRACTOR.

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has frill rights, however, to manage its employees in their performance of Services under this Agreement. Contractor is not authorized to bind City to any contracts or other obligations.

16. NO PLEDGING OF CITY'S CREDIT.

Under no circumstances shall Contractor have the authority or power to pledge the credit of City or incur any obligation in the name of City. Contractor shall save and hold harmless the City, its City Council, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of City's credit by Contractor under this Agreement.

17. CONFIDENTIALITY OF MATERIAL.

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

18. USE OF CITY NAME OR EMBLEM.

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

19. OWNERSHIP OF MATERIAL.

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

20. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR.

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

21. CORRECTION OF SERVICES.

Contractor agrees to correct any incomplete, inaccurate or defective Services at no further costs to City, when such defects are due to the negligence, errors or omissions of Contractor.

22. FAIR EMPLOYMENT.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

23. HOLD HARMLESS/INDEMNIFICATION.

To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which City shall become liable arising from Contractor's negligent, reckless or wrongful acts, errors, or omissions with respect to or in any way connected with the Services performed by Contractor pursuant to this Agreement.

24. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in frill force and effect, at no cost to City insurance policies with respect to employees and vehicles assigned to the Performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in Exhibit C.

25. AMENDMENTS.

This Agreement may be amended only with the written consent of both Parties.

26. INTEGRATED DOCUMENT.

This Agreement represents the entire agreement between City and Contractor. No other understanding, agreements, conversations, or otherwise, with any representative of City 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 City.

27. SEVERABILITY CLAUSE.

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.

28. WAIVER.

Contractor agrees that waiver by City 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.

29. NOTICES.

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

City of Santa Clara
Attention: Electric Department
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) 261-2717

And to Contractor addressed as follows:

Document Management Technology, LLC
1805 Royal Birkdale Dr.
Boulder City, Nevada 89005
or by via email at fmwestbc@cox.net

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

30. 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.

31. 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.

32. DISPUTE RESOLUTION.

A. Unless otherwise mutually agreed to by the Parties, any controversies between Contractor and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.

B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.

C. The costs of mediation shall be borne by the Parties equally.

D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit through mediation only. If mediation does not resolve the dispute, the Parties agree that the matter shall be litigated in a court of law, and not subject to the arbitration provisions of the Public Contracts Code.

33. COMPLIANCE WITH ETHICAL STANDARDS.

Contractor shall:

A. Read Exhibit D, entitled "ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA"; and,

B. Execute Exhibit E, entitled "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS."

34. AFFORDABLE CARE ACT OBLIGATIONS

To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

35. CONFLICT OF INTERESTS.

This Agreement does not prevent either Party from entering into similar agreements with other parties. To prevent a conflict of interest, Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

36. PROGRESS SCHEDULE.

The Progress Schedule will be as set forth in the attached Exhibit F, entitled "MILESTONE SCHEDULE" if applicable.

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:

BRIAN DOYLE
Interim City Attorney

ATTEST:

ROD DIRIDON, JR.
City Clerk

Dated: 9.5.17

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

"CITY"

DOCUMENT MANAGEMENT TECHNOLOGY, LLC
a Nevada limited liability company

Date: 7-27-17

By: Mary Alice West
MARY ALICE WEST
Title: Managing Partner
Address: 1805 Royal Birkdale Drive
Boulder City, NV 89005
Telephone: (702) 293-6487

"CONTRACTOR"

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DOCUMENT MANAGEMENT TECHNOLOGY, LLC

EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are to provide the following services:

Scanning of all documents provided in paper form.

Convert all image files (TIFF or JPEG format) and all electronic document files.

Optimize the PDF files as follows: Bookmarking, Linking, and Highlighting.

Maintain user friendly database system to navigate and search for documents.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DOCUMENT MANAGEMENT TECHNOLOGY, LLC

EXHIBIT B

FEE SCHEDULE

In no event shall the amount billed to City by Contractor for services under this Agreement exceed one hundred thirty thousand dollars and zero cents ($130,000.00), subject to budget appropriations.

DMT's scanning rate - $30.00 per hour

DMT's document conversion; pdf creation and optimization; database manipulation rate, and all other requested tasks - $50.00 per hour

Travel expenses are not included in the hourly rates and will be billed as actual expenses.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DOCUMENT MANAGEMENT TECHNOLOGY, LLC

EXHIBIT C

INSURANCE COVERAGE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $1,000,000 each occurrence
   $1,000,000 general aggregate
   $1,000,000 products/completed operations aggregate
   $1,000,000 personal injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01, with minimum policy limits of not less than one million dollars ($1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with the following limits: at least one million dollars ($1,000,000) policy limit Illness/Injury by disease, and one million dollars ($1,000,000) for each Accident/Bodily Injury.

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given

to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and

deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall tile with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.
City of Santa Clara [Electric Department]
P.O. Box 100085 - S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DOCUMENT MANAGEMENT TECHNOLOGY, LLC

EXHIBIT D

ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA

Termination of Agreement for Certain Acts.

A. The City may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:

1. If a Contractor[1] does any of the following:

   a. Is convicted[2] of operating a business in violation of any Federal, State or local law or regulation;

   b. Is convicted of a crime punishable as a felony involving dishonesty[3];

   c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or, (3) performing a public contract or subcontract;

   d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a City contractor or subcontractor; and/or,

   e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.

---

[1] For purposes of this Agreement, the word "Consultant" (whether a person or a legal entity) also refers to "Contractor" and means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e,, a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

[2] For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

[3] As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

2. If fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with the Contractor can be imputed to the Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

B. The City may also terminate this Agreement in the event any one or more of the following occurs:

1. The City determines that Contractor no longer has the financial capability[4] or business experience[5] to perform the terms of, or operate under, this Agreement; or,

2. If City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, Contractor's failure to maintain a required State issued license, failure to obtain a City business license (if applicable) or failure to provide and maintain bonds and/or insurance policies required under this Agreement.

C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Contractor may appeal the City's action to the City Council by filing a written request with the City Clerk within ten (10) days of the notice given by City to have the matter heard. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

---

[4] Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code (11 U.S.C.), as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

[5] Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DOCUMENT MANAGEMENT TECHNOLOGY, LLC

EXHIBIT E

AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS

I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Exhibit D. I have the authority to make these representations on my own behalf or on behalf of the legal entity identified herein. I have examined appropriate business records, and I have made appropriate inquiry of those individuals potentially included within the definition of "Contractor" contained in Ethical Standards at footnote 1.

Based on my review of the appropriate documents and my good-faith review of the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to said "Contractor" category [i.e., owner or co-owner of a sole proprietorship, general partner, person who controls or has power to control a business entity, etc.] has been convicted of any one or more of the crimes identified in the Ethical Standards within the past five (5) years.

The above assertions are true and correct and are made under penalty of perjury under the laws of the State of California.

DOCUMENT MANAGEMENT TECHNOLOGY, LLC
a Nevada limited liability company

By: Mary Alice West
Signature of Authorized Person or Representative

Name: MARY ALICE WEST

Title: Managing Partner

NOTARY'S ACKNOWLEDGMENT TO BE ATTACHED

Please execute the affidavit and attach a notary public's acknowledgment of execution of the affidavit by the signatory. If the affidavit is on behalf of a corporation, partnership, or other legal entity, the entity's complete legal name and the title of the person signing on behalf of the legal entity shall appear above. Written evidence of the authority of the person executing this affidavit on behalf of a corporation, partnership, joint venture, or any other legal entity, other than a sole proprietorship, shall be attached.

NEVADA ALL-PURPOSE ACKNOWLEDGMENT

State of Nevada
County of Clark }

On 7-27-2017 (Date) before me, Sherrie Ketchum (Here Insert Name and Title of the Officer),

personally appeared Mary Alice West (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sherrie Ketchum (Signature of Notary Public)

SHERRIE KETCHUM
Notary Public State of Nevada
No. 14-14035-1
My Appt. Exp. June 18, 2018

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DOCUMENT MANAGEMENT TECHNOLOGY, LLC

EXHIBIT F

MILESTONE SCHEDULE

(Not Applicable)

20-736 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on Approval of a Letter Agreement Amending 2015 Memorandum of Understanding with the Silicon Valley Regional Interoperability Authority for the Silicon Valley Regional Communications System [Council Pillar: Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

In 2010, the Silicon Valley Regional Interoperability Authority (SVRIA) was formed to create an interoperable radio communication system that enables various public safety entities to communicate directly during a critical incident. In February 2010, the Council approved the City of Santa Clara's participation in SVRIA.

A portion of the communications infrastructure was funded through a combination of Bay Area Urban Area Security Initiative (UASI) grant funds provided by the Federal Department of Homeland Security (DHS) and State Homeland Security Grant Program (SHSGP) funds in the combined amount of approximately $1.8 million.

After completing a Request for Proposal, Motorola Solutions was selected as the vendor to build out a countywide Project 25 (P-25) interoperable digital radio system.

The City completed a study to determine our radio needs (combination of portable radios for police, fire, public works, etc. as well as mobile/vehicle mounted radios). The City of Santa Clara's good faith estimate was 791 radios were needed.

On June 16, 2015, the City Council approved a Memorandum of Understanding (MOU) with SVRIA to ensure adequate operation, support, and financing of the system. Per the MOU, SVRIA will own, maintain, insure, and operate the system in an efficient and economical manner for the benefit of its members. In turn, costs are allocated to each jurisdiction based on the number of radios purchased for use in each jurisdiction. Each jurisdiction is responsible for their proportionate share of the infrastructure costs and ongoing user fees will be charged for each radio used on the system. The MOU expires on December 31, 2029.

In 2016, member agencies entered into the Restatement of the Silicon Valley Regional Interoperability Project Joint Powers Agreement to include the cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, San Jose, Saratoga, Sunnyvale, the Town of Los Gatos, County of Santa Clara, Valley Transportation Authority, San Jose State University, Evergreen Valley College, San Jose City College, Foothill College, DeAnza College, West Valley College, Mission College, and South County Fire. This multi-jurisdictional project allowed for lower infrastructure and operational costs for participating agencies.

DISCUSSION

In 2015, each of the participating agencies provided SVRIA with an “opt in” radio count. The City of Santa Clara’s was 791.

In April 2020, all participating agencies were sent a letter announcing the first True Up and Radio ID Reconciliation process. The True Up and Radio ID Reconciliation were to become effective July 1, 2020.

The Fiscal Year (FY) 2020/21 budget for SVRIA is $4,012,305 with a total user count of 11,365 radios. The City of Santa Clara has 8.02% of the share with 911 radios, meaning the FY 2020/21 operations and maintenance costs are estimated at $321,620. The proposed Letter Agreement accurately reflects the Santa Clara Police Department’s radio usage. The Department does not anticipate that the new administrative or procedural provisions of the Agreement will have any material impact on current operations of the Department.

This adjustment will decrease the Agency Assessment for some Agencies and increase the assessment for others, depending upon the Agency Radio ID count as determined by the Radio ID True Up process and subsequently verified by the individual Agency. These adjustments will have no net financial effect upon SVRIA. The Agency also agrees to waive any potential past adjustments to their Agency Assessments from SVRIA covered by the Silicon Valley Regional Communications System (SVRCS) MOU by entering into the proposed Letter Agreement, which effectively acts as an Amendment to the 2015 MOU.

Since that time, SVRCS met and created the following guidelines for the True Up and Radio ID Reconciliation process to include a Letter Agreement which includes:

1. Base Radio ID count for the SVRCS will not go below the total radio ID count from 2015 which was 10,602.
2. True Up date will be effective July 1, 2020, as the new base for calculating costs.
3. Agencies who wish to change their Radio ID count will need to sign a Letter Agreement by July 1, 2020, to supersede the agreed upon amount during the initial “buy in” (in 2015 SVRCS MOU agreement).
4. New Radio ID counts will be used in the FY 2020/21 annual billing.
5. Existing agencies on the SVRCS will not be required to “buy in” for additional radio ID’s accounted for in the July 2020 Letter Agreement.
6. Existing agencies who wish to reduce their Radio ID count, may do so but will not receive a credit for their initial “buy in.”
7. New agencies seeking to join the SVRCS after July 1, 2020, will be required to submit a request to the JPA. The request will be put through a technical evaluation for system impact and will also be evaluated for the potential costs to be charged to the new Agency.
8. Existing agencies need to reconcile their buy in radio ID count by May 15th to clear up any duplicate ID’s and ensure the counts reconcile. That will be the basis for the Agency count moving forward in the Letter Agreement and for billing purposes.
9. Future requests, after July 1, 2020, by any Agency requesting to add more Radio ID’s on to the system, will need an approval process which will include a system impact assessment. This will assist in determining if additional infrastructure is needed to expand the system in order to accommodate the higher number of Radio ID’s. Should there be a need for technical

enhancement and associated costs, the request will be reviewed by the Working Committee and a funding plan will be developed for the purchase as well as the impact of on-going support.

10. An annual audit will be performed to ensure agencies are maintaining their radio ID counts as agreed upon. The annual audit will occur by March of each year, in concurrence with the adoption of the SVRIA budget. This may result in changes to the annual charge, including an additional infrastructure charge, if radio counts are increased.

New participants joining the SVRCS after July 1, 2020 will be required to submit a request to the JPA. A technical evaluation of the system impact will be evaluated with potential costs to determine the most appropriate next steps.

The proposed Letter Agreement accurately reflects the Santa Clara Police Department's radio usage. The Department does not anticipate that the new administrative or procedural provisions of the Agreement will have any material impact on current operations of the Department.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

FISCAL IMPACT

There is no fiscal impact for this report. The FY 2020/21 Adopted Budget in the Communications Acquisitions Fund is sufficient to cover the estimated operations and maintenance costs identified by the SVRIA.

COORDINATION

This report was coordinated with the Finance Department and City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

Action on Approval of a Letter Agreement Amending the 2015 MOU with the Silicon Valley Regional Interoperability Authority.

Reviewed by: Patrick Nikolai, Chief of Police
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. SVRIA Letter Agreement
2. SVRIA True Up and Radio ID Reconciliation

3. 2015 Memorandum of Understanding

powered by Legistar™

Silicon Valley Regional Interoperability Authority

601 El Camino Real, Santa Clara, CA 95050
(408) 615-5571 www.svria.org

June 8, 2020

City of Santa Clara
1500 Warburton Ave.
Santa Clara, CA 95050

Subject: Letter Agreement for Radio ID Reconciliation, True Up and Member Assessment Adjustment between SVRIA and Member or Participant Agency

Dear. Ms. Deanna Santana:

This Letter Agreement memorializes the Radio ID Reconciliation True Up and Member Assessment adjustment between the Silicon Valley Regional Interoperability Authority ("SVRIA") and the following Member or Participant Agency ("Agency") of SVRIA utilizing the Silicon Valley Regional Communication System ("SVRCS"). Collectively the Members and Participants may be referred to as "Parties".

Prior to entering into the 2015 SVRIA Memorandum of Understanding for the Silicon Valley Regional Communications System ("SVRCS MOU") each Agency was required to make a good faith estimate of the number of Radio ID's that its agency would require upon construction and adoption of the SVRCS. In 2016 the Members entered into the 2016 Restatement of the Silicon Valley Regional Interoperability Project Joint Powers Agreement, which included VTA as a Member of the JPA

The Agencies have determined that their original User Count estimates need to be updated and adjust their annual Agency Assessments commencing with the Fiscal Year 2020/2021 Agency Assessment payment for the SVRIA which will be billed on or about July 1, 2020. This adjustment will decrease the Agency Assessment for some Agencies and increase those for others depending upon the

Subject: Letter Agreement for Radio Reallocation and Member Assessment Adjustment between SVRIA and Member or Participant Agency
June __, 2020
Name of Member or Participant Agency

Agency Radio ID count as determined by the Radio ID True Up process and subsequently verified by the individual Agency[1]. These adjustments will have no net financial effect upon SVRIA. The Agency also agree to waive any potential past adjustments to their Agency Assessments from SVRIA covered by the SVRCS MOU by entering into this Letter Agreement.

The original agreed upon systemwide Radio ID count was 10,602. Should the Radio ID count be revised higher than the base number of 10,602 then there may be individual adjustments to each Agency's charges based upon the revised Radio ID count. The FY 2020/2021 budget for SVRIA is $4,012,305. The total SVRIA budget will be allocated to the Agencies based upon the Radio ID count calculated as a percentage total of 100% multiplied by the total SVRIA budget. This will result in a revised allocation of SVRIA charges. SVRIA will make these adjustments and they will be reflected in the Fiscal Year 2020/2021 Agency Assessments. The revised number of Radio ID's for each Member or Participant as of the date of this letter is attached as Exhibit "1".

Once the True Up process has been completed in June 2020, Agencies wishing to add or reduce their Radio ID count in following years, will need to request the change in writing to SVRIA. At such time, a system impact study will be conducted. New Radio ID's being added in following years may result in infrastructure payments. Should the Agency increase their Radio ID count in the future, it will result in the total charge being adjusted.

An annual Radio ID audit will be completed by March 30th of each successive year to determine if an Agency's Radio ID count matches what is reflected in the Core. Should the Agency's Radio ID number as reflected in the Core increase beyond the July 1, 2020 count then an analysis will be conducted. Should there be a need for technical enhancements and associated costs, the request will be reviewed by the Working Committee and a funding plan will be developed for the purchase as the impact of ongoing support.

New Participants joining the SVRCS after July 1, 2020 will be required to submit a request to the JPA. This will be put through a technical evaluation for system impact and will also be evaluated for the potential costs to be charged to the new Participant agency.

Each Agency waive any potential claim they may have against SVRIA for past Agency Assessments for SVRCS by entering into this Letter Agreement. All Parties agree that the individual signing this Letter Agreement is duly authorized to enter into this Agreement on behalf of their Agency.

[1] All Members and Participants were required to verify their total Radio ID number. Should any Member or Participant fail to reconcile their total Radio ID number on or before June 30, 2020 SVRIA will use the number determined as of that date as the final number for the Member or Participant.

Subject: Letter Agreement for Radio Reallocation and Member Assessment Adjustment between SVRIA and Member or Participant Agency
June __, 2020
Name of Member or Participant Agency

This Letter Agreement may be entered into in counterparts. The collective counterparts may serve as an original binding version of this Letter Agreement.

Very truly yours,

Denise Sellers, Executive Director SVRIA

The terms and conditions contained in this Letter Agreement are binding and approved by the listed Member or Participant Agency:

For: SVRIA

_____
Denise Sellers
Executive Director SVRIA

Date:_____

Approved as to form:

_____
Gary M. Baum
General Counsel, SVRIA

For: Participant or Member Agency

Date:_____

_____
Name of Executing Party
Title

Approved as to form:

_____
Name
Title

Exhibit 1
True Up Letter Agreement
07/01/2020

base		User Count		Operations and Maitenance (FY20/21)	Operations and Maitenance (FY21/22)	Operations and Maitenance (FY22/23)	Operations and Maitenance (FY23/24)	Operations and Maitenance (FY24/25)	Operations and Maitenance (FY25/26)	Operations and Maitenance (FY26/27)	Operations and Maitenance (FY27/28)	
7/1/2020	San Jose	3,250	28.60%	$ 1,147,382	$ 1,228,992	$ 1,249,413	$ 1,296,711	$ 1,322,167	$ 1,348,782	$ 1,375,932	$ 1,404,318	
7/1/2020	Santa Clara County	2,550	22.44%	$ 900,253	$ 964,286	$ 980,309	$ 1,017,419	$ 1,037,393	$ 1,058,275	$ 1,079,577	$ 1,101,850	
7/1/2020	VTA	1,500	13.20%	$ 529,561	$ 567,227	$ 576,652	$ 598,482	$ 610,231	$ 622,515	$ 635,045	$ 648,147	
7/1/2020	Santa Clara	911	8.02%	$ 321,620	$ 344,496	$ 350,220	$ 363,478	$ 370,614	$ 378,074	$ 385,684	$ 393,641	
7/1/2020	Palo Alto	735	6.47%	$ 259,485	$ 277,941	$ 282,560	$ 293,256	$ 299,013	$ 305,032	$ 311,172	$ 317,592	
7/1/2020	Sunnyvale	509	4.48%	$ 179,698	$ 192,479	$ 195,677	$ 203,085	$ 207,072	$ 211,240	$ 215,492	$ 219,938	
7/1/2020	Mountain View	325	2.86%	$ 114,738	$ 122,899	$ 124,941	$ 129,671	$ 132,217	$ 134,878	$ 137,593	$ 140,432	
7/1/2020	Gilroy	310	2.73%	$ 109,443	$ 117,227	$ 119,175	$ 123,686	$ 126,114	$ 128,653	$ 131,243	$ 133,950	
7/1/2020	Milpitas	292	2.57%	$ 103,088	$ 110,420	$ 112,255	$ 116,504	$ 118,792	$ 121,183	$ 123,622	$ 126,173	
7/1/2020	Campbell	125	1.10%	$ 44,130	$ 47,269	$ 48,054	$ 49,873	$ 50,853	$ 51,876	$ 52,920	$ 54,012	
7/1/2020	Valley Water	200	1.76%	$ 70,608	$ 75,630	$ 76,887	$ 79,798	$ 81,364	$ 83,002	$ 84,673	$ 86,420	
7/1/2020	Los Gatos	142	1.25%	$ 50,132	$ 53,697	$ 54,590	$ 56,656	$ 57,769	$ 58,931	$ 60,118	$ 61,358	
7/1/2020	Morgan Hill	185	1.63%	$ 65,312	$ 69,958	$ 71,120	$ 73,813	$ 75,262	$ 76,777	$ 78,322	$ 79,938	
7/1/2020	Los Altos	90	0.79%	$ 31,774	$ 34,034	$ 34,599	$ 35,909	$ 36,614	$ 37,351	$ 38,103	$ 38,889	
7/1/2020	San Jose State	101	0.89%	$ 35,657	$ 38,193	$ 38,828	$ 40,298	$ 41,089	$ 41,916	$ 42,760	$ 43,642	
7/1/2020	EVC/SJCC	31	0.27%	$ 10,944	$ 11,723	$ 11,917	$ 12,369	$ 12,611	$ 12,865	$ 13,124	$ 13,395	
7/1/2020	Foothill/DAC	34	0.30%	$ 12,003	$ 12,857	$ 13,071	$ 13,566	$ 13,832	$ 14,110	$ 14,394	$ 14,691	
7/1/2020	West Valley/Mission	30	0.26%	$ 10,591	$ 11,345	$ 11,533	$ 11,970	$ 12,205	$ 12,450	$ 12,701	$ 12,963	
7/1/2020	South County Fire	45	0.40%	$ 15,887	$ 17,017	$ 17,300	$ 17,954	$ 18,307	$ 18,675	$ 19,051	$ 19,444	
		11,365	100.00%	$ 4,012,305	$ 4,297,690	$ 4,369,102	$ 4,534,497	$ 4,623,517	$ 4,716,587	$ 4,811,528	$ 4,910,792	
	March 22,2018	11,365		$ 4,012,305	$ 4,297,690	$ 4,369,102	$ 4,534,497	$ 4,623,517	$ 4,716,587	$ 4,811,528	$ 4,910,792	
	Agency Add Consoles											
	Los Gatos			$ 3,526.00	$ 3,600.00	$ 3,675.00	$ 3,752.00	$ 3,833.00	$ 3,915.00	$ 4,000.00	$ 4,087.00	
	San Jose			$ 42,304.00	$ 43,182.00	$ 44,086.00	$ 45,016.00	$ 45,975.00	$ 46,962.00	$ 47,977.00	$ 49,023.00	
	SJSU			$ 11,153.00	$ 11,392.00	$ 11,638.00	$ 11,891.00	$ 12,152.00	$ 12,420.00	$ 12,697.00	$ 12,981.00	
	Santa Clara Co. Corrections			$ 34,392.00	$ 34,943.00	$ 35,507.00	$ 36,086.00	$ 36,680.00	$ 37,290.00	$ 37,915.00	$ 38,558.00	
	VTA			$ 15,358.00	$ 29,085.00	$ 29,691.00	$ 30,315.00	$ 30,957.00	$ 31,618.00	$ 32,299.00	$ 33,000.00	
	Total Add'l console cost			$ 106,733.00	$ 122,202.00	$ 124,597.00	$ 127,060.00	$ 129,597.00	$ 132,205.00	$ 134,888.00	$ 137,649.00	
	Budget Total			$4,119,038	$4,419,892	$4,493,699	$4,661,557	$4,753,114	$4,848,792	$4,946,416	$5,048,441	

Amount may differ until we have verification from Motorola regarding actual taxable amount.

Meeting Date: 6-16-15

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 7B.9

Date: June 2, 2015

To: City Manager for Council Action

From: Chief of Police

Subject: Approval of the Memorandum of Understanding between the Silicon Valley Regional Interoperability Authority (SVRIA) and the City of Santa Clara

EXECUTIVE SUMMARY:

The need to possess an interoperable radio communication system that enables the various public safety entities to communicate directly during a critical incident is nationally recognized. The City of Santa Clara and other emergency services agencies in the County of Santa Clara have been working toward regional emergency communication interoperability for several years. In 2010, the Silicon Valley Regional Interoperability Authority (SVRIA) was formed to enhance interoperability. Santa Clara's participation in the SVRIA joint powers agreement was approved by Council in February of 2010. SVRIA manages the system with a board of directors that oversees the financial, technical, and operational aspects of the communication system.

After completing a Request for Proposal process for the first stage of the Silicon Valley Regional Communications System (SVRCS), Motorola Solutions was selected as the vendor to build out a countywide Project 25 (P-25) interoperable digital radio system.

Motorola Solutions designed and is in the process of constructing the SVRCS. The system will consist of a three cell, multi-site P-25 Phase 2 TDMA 700/800 MHz Trunked Radio Simulcast Communication System. The system's infrastructure consists of numerous towers, repeaters, microwave backhaul and the buildings necessary to support this equipment.

A portion of the communications infrastructure was funded through a combination of Bay Area UASI (Urban Area Security Initiative) grant funds provided by the Federal Department of Homeland Security (DHS) and State Homeland Security Grant Program (SHSGP) funds in the combined amount of approximately $ 1.8 million.

The City purchased a total of 791 radios (combination of portable radios for police, fire, public works, etc, as well as mobile/vehicle mounted radios). Prior to purchasing this equipment, a study was completed with the intent to minimize the number of radios needed by each City Department.

Participating agencies are now executing Memoranda of Understanding to ensure adequate operation, support, and financing of the System. SVRIA will maintain, insure, and operate the system in an efficient and economical manner. A copy of the MOU can be viewed on the City's website or is available in the City Clerk's Office for review during normal business hours.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

SVRIA will own and operate the System for the benefit of City and its other members. Costs will be allocated to each jurisdiction based on the number of radios used by the jurisdiction. Each jurisdiction will be responsible for their proportionate share of the infrastructure costs, and ongoing user fees will be charged for each radio used on the system. Other cities are currently executing similar agreements. The other involved agencies include the cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, San Jose, Saratoga, Sunnyvale, the Town of Los Gatos and the County of Santa Clara.

The multi-jurisdictional project will allow for lower infrastructure and operational costs for participating agencies. There are no known disadvantages.

ECONOMIC/FISCAL IMPACT:

City's proportionate share of the infrastructure costs is calculated to be a total of $2,196,726. The MOU establishes three separate payments beginning with a payment of $968,668 in fiscal year 2015/2016. The remaining two payments will be $614,029 in fiscal years 2016/2017 and 2017/2018. The City will fund these payments with a Capital Improvement Project subject to future budget appropriations.

RECOMMENDATION:

That the Council approve and authorize the City Manager to execute a Memorandum of Understanding with the Silicon Valley Regional Interoperability Authority and any documents necessary under the MOU to implement the Silicon Valley Regional Communications System including payments of $968,668 during FY 2015/16; $614,029 in FY 2016/17; and, $614,029 in FY 2017/18 for a total contribution of $2,196, 726.

Michael J. Sellers
FOR Chief of Police

Certified as to Budget Form:
539-7722-6543-80100 $ 614,029.00
Certified as to Availability of Funds:
875-8327-80770-4912 $ 354,639.00

Gary Ameling
Director of Finance/
Assistant City Manager

APPROVED:

Julio J. Fuentes
City Manager

MAJORITY VOTE OF COUNCIL

Documents Related to this Report:

1) Memorandum of Understanding with SVRIA

CITY OF SANTA CLARA

AGENDA MATERIAL ROUTE SHEET

Council Date: June 16, 2015

SUBJECT: Approval of the Memorandum of Understanding between the Silicon Valley Regional Interoperability Authority (SVRIA) and the City of Santa Clara

PUBLICATION REQUIRED:
The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the scheduled meeting/public hearing/bid opening/etc which is scheduled for _____, 20__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:
Title _____ U.S.C. § _____
(Titles run 1 through 50)

Federal Regulations:
Title _____ C.F.R. § _____
(Titles run 1 through 50)

California Codes:
Code _____ § _____
(i.e., Government, Street and Highway, Public Resources)

California Regulations:
Title _____ California Code of Regulations § _____
(Titles run 1 through 28)

City Regulations:
City Charter § _____
City Code § _____
(i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

Reviewed and approved:

1. As to City Functions, by _____
Department Head

2. As to Legality, by _____
City Attorney's Office/CAO Assign. No # 15-0284

3. As to Environmental Impact Requirements, by _____
Director of Planning and Inspection

4. As to Substance, by _____
City Manager

CITY CLERK FILE COPY

MEMORANDUM OF UNDERSTANDING
SILICON VALLEY REGIONAL COMMUNICATIONS SYSTEM

BETWEEN THE SILICON VALLEY REGIONAL INTEROPERABILITY AUTHORITY AND THE CITY OF SANTA CLARA

This Memorandum of Understanding ("MOU") is made and entered into this 1 day of July, 2015, by and between the Silicon Valley Regional Interoperability Authority, a California Joint Powers Authority ("SVRIA"), and the City of Santa Clara, a municipal corporation of the State of California ("AGENCY") (together "Parties").

RECITALS

WHEREAS, in 2001, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, San Jose, Saratoga, and Sunnyvale; the Towns of Los Gatos and Los Altos Hills; the South Santa Clara County Fire District; the County of Santa Clara; San Jose State University; and the Santa Clara Valley Water District executed a Joint Funding Agreement ("Joint Funding Agreement") pursuant to the Joint Exercise of Powers Act, Title 1, Division 7, Chapter 5 of the California Government Code, Government Code Section 6500 *et seq.*, to jointly hire consultants to complete the conceptual design and implementation strategy for a regional interoperable communications network, to jointly purchase a radio and data communications system, to integrate this system or network with other nearby regional public safety communications systems, to participate in regional interoperability systems, to jointly fund activities and systems related to interoperability and to jointly apply for grants and funding to facilitate accomplishing these goals;

WHEREAS, in 2010, the Cities of Campbell, Cupertino, Gilroy, Los Altos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Palo Alto, Santa Clara, San Jose, Saratoga, and Sunnyvale; the Town of Los Gatos and the County of Santa Clara (collectively "MEMBERS") entered into a joint powers agreement ("JPA Agreement") to form the Silicon Valley Regional Interoperability Authority ("SVRIA"), with similar goals and purpose as commenced under the Joint Funding Agreement;

WHEREAS, paying entities, which are not MEMBERS of SVRIA ("PARTICPANTS") will execute this MOU;

WHEREAS, SVRIA continues to plan and develop a regional communications interoperability system that will require the financial commitment of SVRIA MEMBERS and PARTICIPANTS by and through this MOU to fund the construction, operation and maintenance of such system;

WHEREAS, grant and local funds have been provided to SVRIA directly or through MEMBERS to improve interoperability through the multi-stage build out of a three cell, multi-site P25 Phase 2 TDMA 700 MHz Trunked Radio Simulcast Communications System, to be known as the Silicon Valley Regional Communications System ("SVRCS");

WHEREAS, the County of Santa Clara ("County") is the Fiscal Agent and the Contract Manager for SVRIA and the SVRCS build-out ("System");

WHEREAS, in order to facilitate the construction of the SVRCS, the Parties wish to affirm their continued financial support for a regional interoperable communication system as agreed in this MOU;

WHEREAS, AGENCY and SVRIA enter into this MOU under which the SVRIA will own and operate the System for the benefit of AGENCY and other MEMBERS and PARTICIPANTS, which other MEMBERS and PARTICIPANTS will execute Memoranda of Understanding similar to this one (collectively, the "MOU's"). MEMBERS and PARTICIPANTS will pay, a portion of the cost of the System, consisting of a buy-in cost based on the number of radios committed for use on the System (the "Construction and Implementation Payments"), and the cost of annual operation (the "Operation and Maintenance Payments"), (all Payments are referred to herein collectively as the "AGENCY Payments");

WHEREAS, this MOU is intended to establish a means of requiring the MEMBERS' Payments and PARTICIPANTS' payments ensuring the sound operation and financing of the System, and is not in itself an approval of the System or the grant of any land use entitlement potentially required to develop the System; and

WHEREAS, it is anticipated that users of the SVRCS will include entities that enter into a memorandum of understanding similar to this MOU, after the SVRCS is fully functional. ("FUTURE PARTICIPANTS").

NOW, THEREFORE, for good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows.

SECTION 1. DEFINITIONS

AGENCY: The AGENCY entering into this MOU.

Construction: The complete planning, design, construction, acquisition, financing, improvement, repair, modification and installation of the SVRCS .

Construction and Implementation Payments: Payments made under this MOU for the purpose of building the SVRCS.

County: The County of Santa Clara.

FUTURE PARTICIPANTS 1: Entities who enter into a MOU and make their payment after June 30, 2016, but on or before July 1, 2017.

FUTURE PARTICIPANTS 2: Entities who enter into this MOU after July 1, 2017.

Joint Funding Agreement: Joint Funding Agreement is the agreement entered into by the predecessors to SVRIA in 2001 for the purposes of funding and implementing interoperability countywide.

JPA Agreement: The original agreement entered into by Members of the SVRIA in order to form the JPA.

Operations and Maintenance Payments: Payments made based upon this MOU for the ongoing operations and maintenance of the SVRCS.

MEMBERS: The members of the SVRIA under the Joint Powers Agreement.

MOU: This Memorandum of Understanding.

PARTICIPANTS: Parties to a memorandum of understanding similar to this MOU that are not members of SVRIA and enter into a MOU on or before June 30, 2016. .

SVRCS or System: The three cell, multi-site System P25 Phase 2 TDMA 700 MHz Trunked Radio Simulcast Communications System, to be known as the Silicon Valley Regional Communications System. This includes the entire build out interoperable communications system envisioned by SVRIA.

SVRIA: The Silicon Valley Regional Interoperability Authority, formed in 2010 for the purposes of funding and implementing interoperability countywide and as a successor entity to the entity created under the Joint Funding Agreement.

Termination Date: December 31, 2029, unless earlier terminated by the Parties.

User Count: Radio Subscriber count as provided by the Members or Participants as of April 13, 2015 and reflected in Exhibit "A".

SECTION 2. PURPOSES OF THE MOU

The purposes of this MOU are to:

2.1 Require payment by the AGENCY for its share of the regional SVRCS costs; and

2.2 Set forth the MEMBERS, PARTICIPANTS and the SVRIA's responsibilities for completion of the SVRCS build out.

2.3 Set forth SVRIA's obligations to maintain and operate the SVRCS.

SECTION 3. OPERATION OF THE SYSTEM

3.1 SVRIA has entered or will enter into purchase orders and contracts to supervise and provide for, or cause to be supervised and provided for, the complete planning, design,

construction, acquisition, financing, improvement, repair, modification and installation of the SVRCS (collectively, "Construction"). SVRIA will cause the Construction to be diligently performed in accordance with the specifications approved by the SVRIA.

3.2 SVRIA shall operate the System in conjunction with the MEMBERS for the duration of this MOU.

3.3 AGENCY shall have the right to use the System during the term of the MOU, unless AGENCY is in default on AGENCY Payments required hereunder after the applicable cure period set forth in Section 20.

3.4 The SVRCS shall only be used for public safety communications and other governmental uses for the MEMBERS' and PARTICIPANTS' benefit and convenience. SVRIA agrees to maintain and preserve the System in good repair and working order at all times, to operate the System in an efficient and economical manner, and to pay all the System's maintenance and operation costs as they become due. AGENCY acknowledges that SVRIA has complete ownership and the sole discretion to operate, control and manage the System. Nothing in this MOU shall be construed to limit SVRIA's discretion in the System's operation, control and management.

3.5 SVRIA agrees to use commercially reasonable efforts to hire the County of Santa Clara, City of San Jose and/or other contractors to operate and maintain the System.

3.6 AGENCY agrees to purchase the components it uses with the SVRCS service from or with the cooperation of SVRIA. AGENCY shall not use any components with the SVRCS service which SVRIA has not authorized for its use. AGENCY shall not use the SVRCS in any manner which may adversely affect the service provided by the System.

3.7 SVRIA shall attempt to obtain the land use permits, if any, that are required for Construction. In the event a particular permit cannot be reasonably obtained for a particular site, SVRIA will seek one or more reasonable alternate sites.

SECTION 4. MODIFICATION OF SYSTEM

SVRIA shall have the right to make additions, modifications and improvements to the System or any portion thereof. All additions, modifications and improvements to the System shall thereafter comprise part of the System and become subject to the MOU's provisions. Such additions, modifications and improvements shall not in any way damage the System, or cause the System to be used for purposes other than those authorized under the MOU's provisions, state and federal law. The System, upon completion of any additions, modifications and improvements made thereto pursuant to this Section, shall be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

SECTION 5. PAYMENT OF THE INITIAL PAYMENT AND AGENCY PAYMENTS

5.1 AGENCY shall make Construction and Implementation Payments on the dates in Section 22.1 and in the amounts shown in Exhibit "A". AGENCY shall make annual Operations and Maintenance Payments on the dates and in the amounts as calculated by the formula listed in Exhibit "B" or the amounts listed in Exhibit "B

5.2 AGENCY provided User Counts are contained in Exhibit "A". Agencies may increase its User Count after entering into this MOU by the payment of user charge based upon the following formula: Total User Count as shown on Exhibit "A" divided by the total Infrastructure Cost = New User Count Charge. Effective January 1, 2016 and each year thereafter the New User Count Charge shall be increased by an amount equivalent to the then-current User Count Charge multiplied by the percentage increase in the Consumer Price Index – Consolidated Metropolitan Statistical Area (CPI) covering San Francisco - Oakland - San Jose, as published by the Bureau of Labor Statistics, U.S. Department of Labor, between the most recent October and the preceding October. The increase in New User Charge shall be compounded. Agency Operations and Maintenance Costs shall be increased commensurate with the increase in User Counts. Should the Agency User Count decrease in any year Operations and Maintenance Payments will not be reduced except as described in Section 24.

SECTION 6. PARTICIPANTS AND FUTURE PARTICPANTS

6.1 PARTICIPANTS as listed in Exhibit "A" shall pay their pro rata share of the System costs in a timely fashion at the same time MEMBERS make their Payments on or before September 30, 2015. PARTICIPANTS, not listed in Exhibit "A" and join on or before June 30, 2016 shall pay their pro rata share at the time of execution.

6.2 FUTURE PARTICIPANTS 1 who enter into a MOU after June 30, 2016, but on or before July 1, 2017 shall make a special Construction and Implementation Payment to cover previously expended costs by MEMBERS and PARTICIPANTS as well as periodic payments at the times required of other MEMBERS and PARTICIPANTS during the term of this MOU. These special Construction and Implementation payments shall be utilized in part to recalculate payments for Construction and Implementation payments for all MEMBERS, PARTICIPANTS and FUTURE PARTICIPANTS 1 and for additional capacity or system enhancements or held in reserve for the same purpose.

6.3 FUTURE PARTICIPANTS 2 who enter into a MOU after July 1, 2017 shall make a special Construction and Implementation Payment as well as periodic payments at the times required of other MEMBERS and PARTICIPANTS and FUTURE PARTICIPANTS 1 during the term of this MOU. These special Construction and Implementation payments shall be utilized in part to recalculate Operations and Maintenance payments for all MEMBERS, PARTICIPANTS and FUTURE PARTICPANTS 1 and FUTURE PARTICIPANTS 2 and for additional capacity or system enhancements or held in reserve for the same purpose.

SECTION 7. SOURCE OF PAYMENTS: BUDGET AND APPROPRIATION

7.1 AGENCY shall make the AGENCY Payments from any source of legally available AGENCY funds. AGENCY agrees to include all AGENCY Payments in each proposed annual AGENCY budget during the term of this MOU. AGENCY shall make the necessary annual appropriations for Construction and Implementation payments in FY 2015 – 2016, 2016 – 2017 and 2017 – 2018. AGENCY Payments may be made at any time prior to the deadline for such Payment; there are no prepayment penalties under this MOU.

7.2 Notwithstanding paragraph 7.1, in accordance with Article XVI, Section 18 of the California Constitution, if in any fiscal year subsequent to the execution of this MOU the AGENCY fails to appropriate money for the purpose of funding this MOU, this MOU shall terminate, without penalty effective upon the close of business on the last day of the fiscal year for which funding has been appropriated.

SECTION 8. OPERATION AND MAINTENANCE PAYMENTS

In addition the Payments required in this MOU, AGENCY shall continue to make MEMBER Assessment payments as required under the JPA Agreement through the end of fiscal year 2017 – 2018.At the start of fiscal year 2018 – 2019, AGENCY shall begin to make Operation and Maintenance Payments as listed in Exhibit "B", in lieu of Member Assessments so long as the SVRCS is operating.

SECTION 9. ROLE OF GRANT FUNDING

In the event that grant funding can be utilized to reduce the overall System costs, the cost reduction will be apportioned to the SVRCS on behalf of all MEMBERS and PARTICIPANTS in a pro rata fashion for the benefit of the System.

SECTION 10. CONSTRUCTION BUDGET CONTINGENCY

SVRIA has established a 20% construction budget contingency within the System budget. SVRIA shall use these funds for the SVRCS, if unexpected construction costs or increased costs occur. If at the conclusion of System Construction, contingency funds remain, such funds shall be transferred to SVRIA for use as a reserve for Operations and Maintenance costs.

SECTION 11. RECEIPT AND DEPOSIT OF AGENCY PAYMENTS

SVRIA agrees that it will deposit the AGENCY Payments with the SVRIA's fiscal agent, the County, for the benefit of the SVRCS.

SECTION 12. COMPLIANCE WITH MOU

Time is of the essence with respect to the AGENCY Payments and the performance of SVRIA under this MOU. AGENCY shall observe and perform all the agreements,

conditions, covenants and terms contained herein. SVRIA shall observe and perform all the agreements, conditions, covenants and terms contained herein. It is expressly understood and agreed by the Parties that each of the agreements, conditions, covenants and terms contained herein is an essential and material term of the MOU and the operation of the System by SVRIA.

SECTION 13. ACCESS TO SYSTEM

Upon reasonable notice to SVRIA, AGENCY or its authorized representative shall have the right at all reasonable times to enter, examine and inspect the System or any part thereof. AGENCY, any Authorized Representative of AGENCY and AGENCY's successors or assigns shall further have such rights of access to the System or any component thereof as may be reasonably necessary to cause the proper maintenance of the System in the event of failure by the SVRIA to perform its obligations hereunder; provided, however, that neither AGENCY nor any of their assigns shall have any obligation to cause such proper maintenance.

SECTION 14. INSURANCE

14.1 SVRIA shall procure and maintain, or cause to be procured and maintained, throughout the term of this MOU, casualty insurance against loss or damage to the System. This insurance shall, as nearly as practicable, cover loss or damage that is normally covered by such insurance with extended coverage. This insurance shall not be required to cover loss or damage caused by seismic activity. This insurance shall be subject to deductibles as are customarily maintained by public agencies with respect to works and properties of a like character. The insurance may be maintained as part of or in conjunction with any other insurance coverage carried by SVRIA, and may be maintained in whole or in part in the form of the participation by SVRIA in a joint powers authority or other program providing pooled insurance. MEMBERS, PARTICIPANTS, FUTURE PARTICIPANTS 1 and FUTURE PARTICIPANTS 2 as each approves the MOU and makes their payment shall be named as additional insured on SVRIA's liability coverage insurance.

14.2 SVRIA shall maintain or cause to be maintained throughout the MOU's term, a standard comprehensive general insurance policy or policies whose minimums are at least one million ($1,000,000) dollars per occurrence to protect SVRIA, AGENCY, and their respective members, officers, agents, employees, designated volunteers and assigns. The policy or policies shall provide for indemnification of said Parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of operating the System as required by the JPA Agreement. Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as SVRIA shall deem adequate and prudent. This insurance may be maintained as part of or in conjunction with any other insurance coverage carried by SVRIA. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth in this Agreement shall be deemed to be the minimum amount of insurance required under this Agreement and shall be available to the Parties.

14.3 Insurance required to be maintained by subparagraphs 14.1 or 14.2 above, may be obtained under a self-insurance program. SVRIA's coverage shall be primary insurance with respect to the Agency; and Agency's insurance shall be excess of SVRIA's insurance and shall not contribute with it.

14.4 INSURANCE: AGENCY shall, at its own expense maintain in effect, a program of self-insurance and/or insurance of general liability coverage, including automobile liability, in the amount of at least one million ($1,000,000) dollars per occurrence and in the aggregate as well as statutory California Workers' Compensation coverage. The coverage shall remain in effect during the entire term of this MOU. AGENCY shall provide evidence upon the request of SVRIA that the required insurance coverage is in effect.

14.5 SVRIA shall require that errors and omissions insurance in the amount of at least one million ($1,000,000) dollars per claim for any architects or engineers retained for the design and construction of the system.

SECTION 15. BOOKS AND ACCOUNTS

15.1 SVRIA will keep complete and accurate financial records for the System. SVRIA shall keep such records separate from all other SVRIA financial records. Upon reasonable notice to SVRIA, AGENCY may inspect the SVRIA's System financial records.

15.2 Not more than two hundred and ten (210) days after the close of each fiscal year, SVRIA will prepare:

15.2.1 System financial statements in accordance with Generally Accepted Accounting Principles.

15.2.2 An Accountant's Report based thereon, prepared by an Independent Certified Public Accountant who examined such financial statements.

15.2.3 A summary statement of the System's financial condition. SVRIA shall furnish a copy of the summary statement to AGENCY.

15.3 Not more than two hundred and ten (210) days after the completion of all work associated with SVRCS Construction, the SVRIA shall prepare and submit a final report to AGENCY disclosing SVRIA's disbursements of the funds provided by all MEMBERS, PARTICIPANTS and FUTURE PARTICIPANTS.

SECTION 16. PAYMENT OF TAXES AND COMPLIANCE WITH GOVERNMENTAL REGULATIONS

SVRIA will pay and discharge all taxes, assessments and other governmental charges, if any, which may hereafter be lawfully imposed upon the System when due. SVRIA will conform to the valid requirements of any governmental agency with authority relative to the Construction or the System. Without limiting the foregoing, SVRIA shall comply with

all applicable laws and written policies and regulations of the federal, state and local governments in the construction and operation of the SVRCS and the performance of SVRIA under this MOU.

SECTION 17. FURTHER ASSURANCES

SVRIA and AGENCY will each adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to carry out the intention or to facilitate the Parties' performance of this MOU.

SECTION 18. SVRIA REPRESENTATIONS AND WARRANTIES

SVRIA represents and warrants to AGENCY as follows:

18.1 Due Organization and Existence. SVRIA is a joint exercise of powers authority duly organized and validly existing under the JPA Agreement and the laws of the State of California. SVRIA has the full legal right, power and authority under the laws of the State of California to enter into this MOU and to carry out all of its obligations herein.

18.2 Due Execution. SVRIA's representatives, who sign this MOU, are authorized to sign pursuant to a resolution adopted by the SVRIA's Board of Directors.

18.3 Valid, Binding and Enforceable Obligations. This MOU has been authorized and executed by SVRIA and constitutes the legal, valid and binding agreement of SVRIA, enforceable against SVRIA in accordance with its terms.

SECTION 19. AGENCY REPRESENTATIONS AND WARRANTIES

AGENCY represents covenants and warrants to SVRIA as follows:

19.1 Due Organization and Existence. AGENCY is a public body, corporate and politic, duly organized and validly existing under the laws of the State of California. It has full legal right, power and authority to enter into this MOU and to carry out all of its obligations herein.

19.2 Due Execution. AGENCY's representatives, who sign this MOU, are authorized to sign pursuant to an official action taken by AGENCY's governing body.

19.3 Valid, Binding and Enforceable Obligation. This MOU has been authorized and executed by AGENCY and constitutes the legal, valid and binding agreement of AGENCY, enforceable against AGENCY in accordance with its terms.

SECTION 20. EVENTS OF DEFAULT

The following events are Events of Default hereunder:

20.1 Failure by AGENCY to abide by or perform any of its obligations in this MOU within the thirty (30) day period from the date of AGENCY's receipt of SVRIA's written notice

specifying such failure and requesting that it be remedied. Such failure shall not constitute an Event of Default if AGENCY diligently and in good faith, commences to cure the failure within such thirty (30) day period and thereafter completes the cure of such failure within a reasonable period of time. If AGENCY does not complete the cure of the Event of Default in a reasonable time or fails to diligently attempt such cure, SVRIA may terminate this MOU.

20.2 Failure by SVRIA to abide by or perform any of its obligations in this MOU within the thirty (30) day period from the date of SVRIA's receipt of AGENCY's written notice specifying such failure and requesting that it be remedied. Such failure shall not constitute an Event of Default if SVRIA diligently and in good faith, commences to cure the failure within such thirty (30) day period and thereafter completes the cure of such failure within a reasonable period of time. If SVRIA does not complete the cure of the Event of Default in a reasonable time or fails to diligently attempt such cure, AGENCY may terminate this MOU.

20.3 AGENCY files a petition seeking arrangement or reorganization under federal bankruptcy laws or similar state law, or if a court of competent jurisdiction shall approve a petition filed against AGENCY seeking arrangement or reorganization under the federal bankruptcy laws or similar state law, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of such AGENCY or of the whole or a substantial part of its property. Notwithstanding the foregoing, such filing shall not constitute an Event of Default if AGENCY continues to pay its AGENCY Payments on time.

20.4 SVRIA files a petition seeking arrangement or reorganization under federal bankruptcy laws or similar state law, or if a court of competent jurisdiction shall approve a petition filed against SVRIA seeking arrangement or reorganization under the federal bankruptcy laws or similar state law, or if under the provisions of any other law for the relief or aid of debtors any court of competent jurisdiction shall assume custody or control of SVRIA.

SECTION 21. REMEDIES NOT EXCLUSIVE

No remedy herein conferred upon or reserved in this MOU is exclusive of any other remedy, and each such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing in law or in equity or by statute or otherwise, and all such remedies may be exercised without exhausting and without regard to any other remedy.

SECTION 22. AGENCY'S OBLIGATIONS

22.1 AGENCY's Payment. AGENCY shall pay to the SVRIA money in the amount stated on the SVRIA invoice in an approximate amount as specified in Exhibit "A" to the SVRIA to fully offset the AGENCY's portion of the regional SVRCS cost. Payments shall commence in fiscal year 2015 – 2016 unless otherwise designated in Exhibit "A". These payments shall be made by September 30, 2015 and by each succeeding September 30 and shall

last for a minimum of three fiscal years as delineated in Exhibit A. Operation and Maintenance Payments, as shown in Exhibit "B", shall commence on September 30, 2018 and continue throughout the term of the MOU. AGENCY shall make these payments on or before September 30 of each successive fiscal year. Operations and Maintenance costs for future years may increase, but such increase will be limited to actual costs and reserve requirements.

22.2 AGENCY's Role in SVRCS. During the Construction and Operation of the SVRCS:

22.2.1 AGENCY shall provide technical support including testing during the System Construction and delivery.

22.2.2 AGENCY shall participate in System meetings with SVRIA and its contractor(s).

22.2.3. AGENCY shall coordinate with SVRIA for the System upgrade and maintenance work at all AGENCY facilities.

22.2.4 AGENCY shall assist SVRIA with the final acceptance of the SVRCS by testing System performance, evaluating workmanship and verifying installed equipment inventories.

22.2.5 AGENCY's costs to administer and participate in usage of the SVRCS will not be reimbursed through the SVRCS grant funds, the JPA Agreement or by SVRIA.

SECTION 23. SVRIA'S OBLIGATIONS

In consideration of AGENCY's Payment, SVRIA shall fulfill the obligations listed below:

23.1 Tasks. SVRIA shall perform and be responsible for the following tasks for completing the SVRCS , including, but not limited to:

23.2.1 Serve as System Manager for the SVRCS, or retain a qualified contractor(s) to serve as System Manager for the SVRCS,

23.2.2 Fulfill CEQA requirements, if any.

23.2.3 Implement Construction in accordance with UASI and SHSGP Grant guidelines.

SECTION 24. TERM OF MOU

24.1 This MOU commences upon the full execution of the MOU ("Effective Date") and shall expire on December 31, 2029. The MOU shall be automatically extended for two (2) additional three-year periods. One year prior to each expiration date, SVRIA shall inform each Member or Participant of the approaching automatic extension of the term of the MOU. Any Member or Participant may notify the SVRIA in writing within one

hundred and eighty (180) days of such notice, that it does not agree to the extension of the term of the MOU. The Operations and Maintenance payments for the remaining MEMBERS or PARTICIPANTS shall be adjusted based upon actual User Count as of June 30 of the year in which the MOU terminates starting in, 2029, and at the expiration of the first three year extension period. All financial commitments of AGENCY for Payments while AGENCY is a MEMBER and/or while this MOU applies to AGENCY shall extend past the termination date unless the commitments have been satisfied prior to that date.

24.2 This MOU shall not commence unless and until the City of San Jose and the County of Santa Clara have approved this MOU and budgeted funding for the first year of the MOU. If the any Member or Participant terminates this MOU then the SVRIA shall meet and confer in good faith concerning the continued operation of SVRCS and possible amendment to this Agreement.

SECTION 25. OWNERSHIP, MAINTENANCE, INSURANCE AND MANAGEMENT

County, as Fiscal Agent for the UASI and SHSGP Grants, shall own, maintain, insure, and manage all infrastructure equipment and upgrades installed as part of the SVRCS upon the System's final acceptance by the County, until such time as SVRIA assumes ownership, maintenance, insurance, and management responsibilities. If the SVRIA purchases dispatch consoles, subscriber radios and other related equipment and/or accessories on AGENCY's behalf, such equipment shall be transferred from the SVRIA to AGENCY following SVRIA's receipt of AGENCY's full reimbursement of costs.

SECTION 26. RELATIONSHIP OF THE PARTIES

Each Party shall perform the work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the other Party. None of the MOU's provisions are intended to create, nor shall be deemed or construed to create, any relationship between the Parties other than that of independent parties contracting with each other for purpose of effecting the MOU's provisions. The Parties are not, and will not be construed to be in a relationship of joint venture, partnership or employer-employee. Neither Party has the authority to make any statements, representations or commitments of any kind on behalf of the other Party, or to use the name of the other Party in any publications or advertisements, except with the written consent of the other Party.

SECTION 27. MODIFICATION

The Parties may modify this MOU only through a written document, signed by both Parties.

SECTION 28. SEVERABILITY

The MOU's provisions are severable, and if for any reason, a Court with proper jurisdiction determines a clause, sentence, or paragraph of this MOU to be invalid such invalidity shall

not affect other provisions of this MOU, which shall be given effect without the invalid provision.

SECTION 29. TERMINATION

29.1 This MOU may be terminated upon six months written notice to SVRIA. Should AGENCY terminate this Agreement AGENCY shall have no interest or claim in the assets of the SVRIA absent an SVRIA approved written agreement which contains express provisions to the contrary. The terminating AGENCY shall be obligated to pay a pro rata share of its payments up to the date of termination.

29.2 If the Agreement is terminated pursuant to Section 29.1 or Section 7.2 then SVRIA may remove any SVRCS equipment and relocate the equipment to support the balance of the system. Should the equipment need to be removed or relocated after termination the costs of relocation or removal shall be borne by the terminating party.

29.3 Nothing contained in this MOU or the JPA Agreement requires that AGENCY remain as a MEMBER, however the JPA Agreement does contain terms for withdrawal from the JPA.

SECTION 30. SURVIVAL

30.1 After the MOU's termination or expiration, those provisions which by their nature or context are intended to survive beyond termination or expiration, and all provisions regarding indemnification and limitations of liability, will survive indefinitely or until the expiration of the time period specified elsewhere in this MOU with respect to the provision in question.

30.2 Upon the MOU's termination or expiration, as between the Parties, the SVRIA retains all right, title and interest in and to the SVRCS.

SECTION 31. ASSIGNMENT

This MOU shall be binding upon and shall inure to the benefit of the successors of the Parties. With the exception of asset transfer to SVRIA, and if applicable, AGENCY as detailed herein, no Party may assign any rights or obligations hereunder without the written consent of the other Party, except as provided herein.

SECTION 32. NO WAIVER

No waiver by either Party of any breach or default of any of the covenants or agreements herein shall be deemed to be a waiver as to any subsequent and/or similar breach or default.

SECTION 33. INDEMNIFICATION

33.1 SVRIA agrees to indemnify, defend and hold harmless the AGENCY, its officers, agents and employees to the fullest extent allowed by law from any and all claims, actions, causes of action, losses, damages, liabilities and costs of every nature, including all claims, actions, causes of action, losses, damages, liabilities for property damage, bodily injury, or death, and all costs of defending any claim, action or cause of action, caused by, arising out of, or resulting from, or alleged to have been caused by, arise out of, or result from, in whole or in part, SVRIA's performance under this Agreement, except for any claims, actions, causes of action, losses, damages, costs or liabilities proximately caused by the sole negligence or willful misconduct of AGENCY.

33.2 The foregoing indemnity provision is intended to fully allocate the parties' risk of liability to third-parties; and there shall be no rights to indemnity or contribution, in law or equity or otherwise between the parties that are not set forth in this section. SVRIA waives all rights to subrogation for any matters covered by this provision. SVRIA's responsibility for such defense and indemnity obligations as set forth in this provision shall survive the termination or completion of this MOU for the full period of time allowed by law.

SECTION 34. FORCE MAJEURE

"Force Majeure Event" means any circumstances or occurrence which is beyond the reasonable control of a Party including, but not limited to, acts of God, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, strike, lock-out or other form of industrial action (other than those relating solely to any Party's own workforce). If a Force Majeure Event affects either Party, that Party shall promptly notify the other Party of the nature and extent of the Event. No Party shall be liable for any loss or damage suffered or incurred by the other Party arising from the first Party's delay in performing or failure to perform its obligations under the MOU to the extent that and for so long as the delay or failure results from any Force Majeure Event, provided the same arises without the fault or negligence of the first Party. Each Party shall use its commercially reasonable efforts to minimize the effects of any Force Majeure Event on the operation of this MOU and the System.

SECTION 35. SUCCESSOR IS DEEMED INCLUDED IN ALL REFERENCES TO PREDECESSOR

Whenever SVRIA or AGENCY is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in SVRIA or AGENCY, and all agreements and covenants required hereby to be performed by or on behalf of SVRIA or AGENCY shall bind and inure to the benefit of the respective successors thereof whether so expressed or not; provided; however, that SVRIA shall not provide service from the System to any successor to AGENCY until such successor accepts in writing, AGENCY's obligations.

SECTION 36. WAIVER OF PERSONAL LIABILITY

No board member, officer, attorney or employee of AGENCY or SVRIA shall be individually or personally liable under the MOU.

SECTION 37. NOTICES

37.1 All deliveries, notices, requests, demands, or other communications provided for or required by this MOU shall be in writing and shall be deemed to have been given when sent by registered or certified mail, return receipt requested or when sent by overnight carrier;.

Notices shall be addressed to:

SVRIA:

Heather Tannehill-Plamondon
Executive Director, SVRIA
601 El Camino Real
Santa Clara, CA 95050

Telephone: 408-615-5571
Email:hplamondon@svria.org

AGENCY: City of Santa Clara Police Department
601 El Camino Real
Santa Clara, CA 95050
Attn: Chief Michael J. Sellers

Telephone: (408) 615-4894
Email: msellers@santaclaraca.gov

37.2 A Party may change its Notice contact or Notice address by written Notice to the other Party. Such change becomes effective no sooner than ten (10) days after the date of such Notice.

SECTION 38. TITLES AND HEADINGS

The titles, numbers and headings of paragraphs, sections, subsections, and exhibits are for convenience only and are not intended to affect the MOU's construction or interpretation.

SECTION 39. ENTIRE AGREEMENT

This MOU and attached exhibits incorporate all the agreements, covenants, and understandings between the Parties concerning the subject matter hereof, and all such

agreements, covenants, and understandings have been merged into this MOU. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this MOU.

SECTION 40. COUNTERPARTS

This MOU may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

SECTION 41. GOVERNING LAW

California law governs the MOU's performance and interpretation.

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SECTION 42. VENUE

If a Party to this MOU brings a lawsuit connected to the System, the Parties agree that venue shall be exclusively vested in the State Courts of the County of Santa Clara.

IN WITNESS OF, the Parties have executed the MOU through their duly authorized representatives as of the last date set forth below.

Signed:

SVRIA

By: Meagan A Satterlee
Chair of Board of Directors

Date: July 16, 2015

Attest:

By: _____

Date: 7/16, 2015

Approved as to Form and Legality:

By: _____
Gary M. Baum
General Counsel, SVRIA

Date: 7/23/15, 2015

AGENCY

By: _____
Name, or Designee

Date: 6/26, 2015

Approved as to Form and Legality:

By: _____
Name, or Designee

(title) Assistant City Attorney

Date: 6/18, 2015

ATTEST: _____ City Clerk

Exhibit A

Cost per agency Breakdown			Infrastructre				
	User Count		FY14/15	FY15/16	FY16/17	FY17/18	Infrastructure Cost
San Jose	2,750	26.63%		$2,562,234	$ 2,562,234	$2,562,234	$ 7,686,703
Santa Clara County	2,130	20.62%		$1,984,567	$ 1,984,567	$1,984,567	$ 5,953,701
VTA	2,000	19.36%		$1,863,443	$ 1,863,443	$1,863,443	$ 5,590,329
Santa Clara	791	7.66%	$354,639	$ 618,779	$ 618,779	$ 618,779	$ 2,210,975
Palo Alto	690	6.68%		$ 642,888	$ 642,888	$ 642,888	$ 1,928,664
Sunnyvale	455	4.41%		$ 423,933	$ 423,933	$ 423,933	$ 1,271,800
Mountain View	300	2.90%		$ 279,516	$ 279,516	$ 279,516	$ 838,549
Gilroy	262	2.54%		$ 244,111	$ 244,111	$ 244,111	$ 732,333
Milpitas	249	2.41%		$ 231,999	$ 231,999	$ 231,999	$ 695,996
Campbell	189	1.83%		$ 176,095	$ 176,095	$ 176,095	$ 528,286
Los Gatos	140	1.36%		$ 130,441	$ 130,441	$ 130,441	$ 391,323
Morgan Hill	135	1.31%		$ 125,782	$ 125,782	$ 125,782	$ 377,347
Los Altos	90	0.87%		$ 83,855	$ 83,855	$ 83,855	$ 251,565
SJSU	73	0.71%		$ 68,016	$ 68,016	$ 68,016	$ 204,047
Community Colleges	43	0.42%		$ 40,064	$ 40,064	$ 40,064	$ 120,192
South County Fire	31	0.30%		$ 28,883	$ 28,883	$ 28,883	$ 86,650
	10,328	100.00%					**$ 28,868,460**
April 13,2015	10,328		$354,639	$9,504,607	$ 9,504,607	$9,504,607	**$ 28,868,460**

Exhibit B

	User Count		Operations and Maitenance (FY18/19)	Operations and Maitenance (FY19/20)	Operations and Maitenance (FY20/21)	Operations and Maitenance (FY21/22)	Operations and Maitenance (FY22/23)	Operations and Maitenance (FY23/24)	Operations and Maitenance (FY24/25)	Operations and Maitenance (FY25/26)	Operations and Maitenance (FY26/27)	Operations and Maitenance (FY27/28)	Operations and Maitenance (FY28/29)
San Jose	2,750	26.63%	$1,008,125	$1,008,125	$ 997,406	$ 1,014,899	$ 1,033,175	$ 1,052,376	$ 1,072,464	$ 1,093,484	$ 1,115,525	$ 1,138,589	$ 1,159,952
Santa Clara County	2,130	20.62%	$780,838	$780,838	$ 772,536	$ 786,086	$ 800,241	$ 815,113	$ 830,672	$ 846,953	$ 864,025	$ 881,889	$ 898,436
VTA	2,000	19.36%	$733,182	$733,182	$ 725,386	$ 738,109	$ 751,400	$ 765,365	$ 779,974	$ 795,261	$ 811,291	$ 828,064	$ 843,601
Santa Clara	791	7.66%	$289,973	$289,973	$ 286,890	$ 291,922	$ 297,179	$ 302,702	$ 308,480	$ 314,526	$ 320,866	$ 327,500	$ 333,644
Palo Alto	690	6.68%	$252,948	$252,948	$ 250,258	$ 254,647	$ 259,233	$ 264,051	$ 269,091	$ 274,365	$ 279,895	$ 285,682	$ 291,043
Sunnyvale	455	4.41%	$166,799	$166,799	$ 165,025	$ 167,920	$ 170,943	$ 174,120	$ 177,444	$ 180,922	$ 184,569	$ 188,385	$ 191,919
Mountain View	300	2.90%	$109,977	$109,977	$ 108,808	$ 110,716	$ 112,710	$ 114,805	$ 116,996	$ 119,289	$ 121,694	$ 124,210	$ 126,540
Gilroy	262	2.54%	$96,047	$96,047	$ 95,026	$ 96,692	$ 98,433	$ 100,263	$ 102,177	$ 104,179	$ 106,279	$ 108,476	$ 110,512
Milpitas	249	2.41%	$91,281	$91,281	$ 90,311	$ 91,895	$ 93,549	$ 95,288	$ 97,107	$ 99,010	$ 101,006	$ 103,094	$ 105,028
Campbell	189	1.83%	$69,286	$69,286	$ 68,549	$ 69,751	$ 71,007	$ 72,327	$ 73,708	$ 75,152	$ 76,667	$ 78,252	$ 79,720
Los Gatos	140	1.36%	$51,323	$51,323	$ 50,777	$ 51,668	$ 52,598	$ 53,576	$ 54,598	$ 55,668	$ 56,790	$ 57,965	$ 59,052
Morgan Hill	135	1.31%	$49,490	$49,490	$ 48,964	$ 49,822	$ 50,719	$ 51,662	$ 52,648	$ 53,680	$ 54,762	$ 55,894	$ 56,943
Los Altos	90	0.87%	$32,993	$32,993	$ 32,642	$ 33,215	$ 33,813	$ 34,441	$ 35,099	$ 35,787	$ 36,508	$ 37,263	$ 37,962
San Jose State	73	0.71%	$26,761	$26,761	$ 26,477	$ 26,941	$ 27,426	$ 27,936	$ 28,469	$ 29,027	$ 29,612	$ 30,224	$ 30,791
Community Colleges	43	0.42%	$15,763	$15,763	$ 15,596	$ 15,869	$ 16,155	$ 16,455	$ 16,769	$ 17,098	$ 17,443	$ 17,803	$ 18,137
South County Fire	31	0.30%	$11,364	$11,364	$ 11,243	$ 11,441	$ 11,647	$ 11,863	$ 12,090	$ 12,327	$ 12,575	$ 12,835	$ 13,076
	10,328	100.00%	$3,786,150	$3,786,150	$ 3,745,893	$ 3,811,593	$ 3,880,229	$ 3,952,343	$ 4,027,786	$ 4,106,729	$ 4,189,508	$ 4,276,125	$ 4,356,358
April 13, 2015	10,328		$3,786,150	$3,786,150	$ 3,745,893	$ 3,811,593	$ 3,880,229	$ 3,952,343	$ 4,027,786	$ 4,106,729	$ 4,189,508	$ 4,276,125	$ 4,356,358

20-751 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Action on Amended and Restated Disposition and Development Agreement with Monroe Street Housing Partners L.P for the Project at 2330 Monroe Street and Related Budget Amendment [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

BACKGROUND

The City, as Housing Successor to the dissolved redevelopment agency, was designated to assume all housing assets (including land) of the former redevelopment agency and these assets were placed into a Housing Successor Fund. As the Housing Successor, the City must initiate development activities on any land that it obtained from the former redevelopment agency within five years after the Department of Finance confirmed the property as a housing asset and consistent with the intent to provide housing affordable to persons and families of low and moderate income.

The City issued a Request for Proposals (RFP) in 2018 for the development of an affordable housing project on the City-owned property located at the southeast corner of Monroe Street and San Tomas Expressway (2330 Monroe Street). Monroe Street Housing Partners L.P (Freebird) was selected as the Developer for the site through an RFP process and the Council approved an Exclusive Negotiation Agreement (ENA) with Freebird in December 2018 to allow the project to proceed. On January 28, 2020, Council approved land use entitlements and a Disposition and Development Agreement for the project.

The subject property is currently vacant. It is bordered to the west by San Tomas Expressway and to the north by Monroe Street and bounds the rear yard of single-family residences to the south and east. Neighboring land uses include single-family houses to the north, south and east, two-story multifamily residential uses across Monroe Street to the northeast, and the San Tomas and Monroe Neighborhood Park across San Tomas Expressway to the west.

The proposed project consists of a single 65-unit building varying in height from two to three stories, approximately 32,000 square feet of open space for active recreational uses, and 98 surface parking spaces. The parking includes ten stalls designated for future EV charging stations, a loading/drop-off/paratransit stall, seven accessible stalls, and a dedicated food delivery stall. All units within the project will be deed restricted as affordable housing. A unique aspect of the Developer proposal is a set-aside of 25% of the units (16 units at 25% AMI) for Santa Clara's growing population of adults with developmental and/or intellectual disabilities.

The Developer's proposal to provide housing for a variety of household sizes and incomes addresses the community's desire to create homes in the City for people who work in a variety of lower-paying jobs that provide key services to the community. The City's existing market rate rental housing is out of reach for many working families, including those supported by workers in public service, health

care, education, retail, hospitality, and social services. While workers in the lowest-paid jobs (from minimum wage to 60% AMI) can apply for five-year wait lists for affordable housing, families in the 60% to 120% AMI range are excluded even from typical affordable housing.

The following is a summary of the project's proposed affordability structure:

Proposed Project Unit Mix			
Income	**Units Previous**	**Units Current**	**Percentage**
30% AMI	16	16	25%
50% AMI	10	13	20%
60% AMI	13	12	18%
80% AMI	16	23	35%
100% AMI	9	0	0%
Manager	1	1	2%
Total	**65**	**65**	**100%**

The project's provision of units for adults with development and/or intellectual disabilities would address a previously unmet goal of the City's 2014-2022 Housing Element: to collaborate with developers to create inclusive housing for people with developmental disabilities served by the San Andreas Regional Center.

DISCUSSION

After pursuing multiple funding options, the project Developer has not been able to obtain the full amount of funding needed to move the 100% affordable project forward. The Developer has therefore requested an Amendment to the project's Disposition and Development Agreement (DDA) to increase the City capital loan by $1,500,000, which would increase the City's loan amount from $5,000,000 to $6,500,000. The City and Developer are also recommending a seller takeback loan in the amount of $5,200,000.

City Capital Loan

The City is currently the fee owner of the Property. The original DDA provided a supplemental capital loan of up to $5,000,000 through a Loan Agreement. At the time of the original DDA, project financing assumed funding from the State's recently launched Mixed Income Program (MIP), including capital subsidy and state low income housing tax credits. While the State had previously indicated MIP funding would be allocated across four rounds annually, the State allocated all of the funds in the first two rounds of 2020 so that MIP funds were not available for the project and leaving the project with about a $5 million gap from its original funding plan. The Developer subsequently applied for Apple Affordable Housing Funds through the Housing Trust of Silicon Valley but was not awarded funds (we believe 4 projects were awarded from the over 50 applications received). The Developer was however able to obtain a Project Based Voucher award on May 19, 2020 through the Santa Clara County Housing Authority (SCCHA) which will meet part of their current financing gap.

To fill the remaining gap, the Developer is requesting an additional $1.5 million of City capital loan, which would increase the City's loan amount from $5,000,000 to $6,500,000 ($100k per unit). In the

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event these funds are not needed prior to financing or after construction completion, these funds will be returned to the City. Even if these funds are not ultimately needed, having them committed to the project meets a requirement to demonstrate adequate funding sources in order to qualify for tax-exempt bonds and low-income housing tax credits.

City Takeback Loan

The proposed Amended and Restated Disposition and Development Agreement would also include a seller takeback loan in the amount of $5,200,000 to capitalize the site acquisition under the Ground Lease. The $5,200,000 loan represents the appraised value of the site, which the Developer will pay to the City at closing through execution of the $5,200,000 seller takeback promissory note. The seller takeback note does not increase the City's capital obligation to the project; however, this structure does guarantee that the City will recapture the value of its land over time through residual receipt cash flow payments.

Conclusion

The project plays an important role in achieving the City's affordable housing program objectives. The additional loan amount represents a small increase in City contribution relative to the overall value of the development and the benefit it would bring to the City. City staff agrees that the Developer has exhausted other potential funding opportunities and that it could not be anticipated that the MIP funding would not be available. The City has adequate funds within the Housing Authority Fund to provide the additional loan amount being requested.

The following is a summary of the updated permanent financing sources that would be in place with approval of the requested Amendment:

Project Funding - Permanent Sources		
	Previous	**Revised**
Tax Credit Equity	$ 13,000,000	$ 15,450,000
Tax Exempt Bonds	$ 11,200,000	$ 14,200,000
City of Santa Clara Capital	$ 5,000,000	$ 6,500,000
City of Santa Clara Land L	$ 0	$ 5,200,000
State MHP Loan	$ 5,500,000	$ 0
County Loan	$ 3,200,000	$ 3,200,000
Deferred Developer Fee	$ 750,000	$ 1,800,000
Total Sources	**$ 38,650,000**	**$ 46,350,000**

The development budget has increased by $7.7 million, which is mostly a function of the $5.2 million City land loan. The previous transaction included a $0 conveyance and now the $5,200,000 seller takeback loan guarantees that the City will recapture the value of its land over time through residual receipt cash flow payments. Other cost increases are associated with permitting, insurance, and an adjustment to the Developer Fee as permitted by the California Tax Credit Allocation Committee (TCAC). All the Developer fee increase has been deferred and will be paid via future cash flows over time.

Next Steps

It is currently anticipated that with approval of the DDA Amendment, the 2330 Monroe Street project will close financing and start construction by early 2021.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

On January 28, 2020, the City Council approved a Mitigated Negative Declaration (MND) and the Mitigation Monitoring and Reporting Program (MMRP) for the proposed project.

FISCAL IMPACT

If approved, the City's original capital loan of up to $5,000,000 for the affordable project would increase by an additional $1,500,000 as proposed in the Amended and Restated Disposition and Development Agreement for a total loan amount of $6,500,000. The FY 2020/21 Operating Budget already includes the original loan amount of $5,000,000 funded through the Housing Successor Agency Fund. The budget amendment recommended below increases the capital loan amount by $1,500,000 funded from the fund balance in the City Housing Authority Fund.

In addition to the capital City Loan, the Amended and Restated Disposition Development Agreement includes a seller takeback loan in the amount of $5,200,000, which the Developer will pay to the City at closing and the City will loan back to the affordable project. The budget amendment recommended below recognizes the Developer contributions of $5,200,000 and the seller loan of $5,200,000.

The principal under the loan will bear simple interest at a rate of up to 3% per year, subject to final underwriting. The principal and interest due under this agreement would be paid 55 years from the date of the agreement. Annual payments would be made upon the availability of residual receipts and would be proportionally split between the subordinate lenders.

Budget Amendment
FY 2020/21

	Current	Increase/ (Decrease)	Revised
Housing Authority Fund			
Revenues			
Developer Contributions	$0	$5,200,000	$5,200,000
Expenditures			
City Loan for Affordable Housing Project at 2330 Monroe Street	$0	$6,700,000	$6,700,000
Reserves			
Ending Fund Balance	$3,149,822	($1,500,000)	$1,649,822

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COORDINATION

This report was coordinated with the City Manager's Office, City Attorney's Office and Finance Department.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

ALTERNATIVES

1. Adopt a Resolution approving and authorizing the City Manager to execute the Amended and Restated Disposition and Development Agreement with Monroe Street Housing Partners L.P. for the development of 65 units of housing at 2330 Monroe Street and further authorizing the City Manager to execute all other agreements (including a Ground Lease, Loan Agreements, Deeds of Trust, Promissory Notes, and Affordable Housing Agreement) in a form consistent with the DDA and all other documents necessary or convenient to close escrow and implement the purposes and terms of the DDA.
2. Approve the Related Budget Amendment to recognize Developer Contributions of $5,200,000, increase the loan appropriation by $6,700,000, and decrease the Ending Fund Balance by $1,200,000 in the Housing Authority Fund.
3. Do not adopt a Resolution approving and authorizing the City Manager to execute the Amended and Restated Disposition and Development Agreement with Monroe Street Housing Partners L.P. for the development of 65 units of housing at 2330 Monroe Street
4. Do not approve the Related Budget Amendment to recognize Developer Contributions of $5,200,000, increase the loan appropriation by $6,700,000, and decrease the Ending Fund Balance by $1,200,000 in the Housing Authority Fund.
5. Any other alternate action as directed by Council.

RECOMMENDATION

Alternatives 1 and 2:

1. Adopt a Resolution approving and authorizing the City Manager to execute the Amended and Restated Disposition and Development Agreement with Monroe Street Housing Partners L.P. for the development of 65 units of housing at 2330 Monroe Street and further authorizing the City Manager to execute all other agreements (including a Ground Lease, Loan Agreements, Deeds of Trust, Promissory Notes, and Affordable Housing Agreement) in a form consistent with the DDA and all other documents necessary or convenient to close escrow and implement the purposes and terms of the DDA; and
2. Approve the FY 2020/21 Budget Amendment in the Housing Authority Fund to recognize Developer Contributions of $5,200,000, establish a loan appropriation in the amount of $6,700,000, and decrease the Ending Fund Balance by $1,500,000.

Reviewed by: Andrew Crabtree, Director of Community Development
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Freebird DDA
2. City Loan Agreement
3. City Promissory Note
4. Seller Promissory Note
5. Seller Deed of Trust
6. Seller Assignment of Rents and Leases
7. Redline pages DDA
8. Resolution

AMENDED AND RESTATED
DISPOSITION AND DEVELOPMENT AGREEMENT
(Freebird - 2330 Monroe Street, Santa Clara, CA 95050)

between the

THE CITY OF SANTA CLARA

and

FREEBIRD DEVELOPMENT COMPANY, LLC

ATTACHMENTS

ATTACHMENT A	LEGAL DESCRIPTION OF CITY PROPERTY
ATTACHMENT B	SCHEDULE OF PERFORMANCE
ATTACHMENT C	[RESERVED]
ATTACHMENT D	INSURANCE REQUIREMENTS
ATTACHMENT E	FINANCING SUMMARY
ATTACHMENT F	PERMITTED EXCEPTIONS
ATTACHMENT G	GROUND LEASE
ATTACHMENT H	MEMORANDUM OF GROUND LEASE
ATTACHMENT I	CITY LOAN AGREEMENT
ATTACHMENT J-1	CITY PROMISSORY NOTE
ATTACHMENT J-2	SELLER PROMISSORY NOTE
ATTACHMENT K-1	CITY DEED OF TRUST
ATTACHMENT K-2	SELLER DEED OF TRUST
ATTACHMENT L-1	CITY ASSIGNMENT OF RENTS AND LEASES
ATTACHMENT L-2	SELLER ASSIGNMENT OF RENTS AND LEASES
ATTACHMENT M	CITY ASSIGNMENT OF AGREEMENTS
ATTACHMENT N	PROVISIONS FOR DISBURSEMENT AGREEMENT
ATTACHMENT O	[RESERVED]
ATTACHMENT P	CITY REGULATORY AGREEMENT
ATTACHMENT Q	GRANT DEED
ATTACHMENT R	[RESERVED]
ATTACHMENT S	CITY ENVIRONMENTAL INDEMNITY

AMENDED AND RESTATED
DISPOSITION AND DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT (Freebird - 2330 Monroe Street, Santa Clara, CA 95050), dated for identification purposes only as of _____, 2020, is entered into by and between the **CITY OF SANTA CLARA**, a California municipal corporation (the "**City**"), and **FREEBIRD DEVELOPMENT COMPANY, LLC,** a California limited liability company ("**Developer**"), with reference to the following:

R E C I T A L S

The following recitals are a substantive part of this Agreement:

A. The City is a California municipal corporation existing under the laws of the State of California.

B. The City has adopted a Housing Element to its General Plan pursuant to Government Code § 65580 *et seq.*, which sets forth City's policies, goals and objectives to provide housing to all economic segments of the community, including the preservation and development of housing affordable to low and moderate income households.

C. The City owns that certain vacant lot of approximately 2.5 acres located at 2330 Monroe Street, Santa Clara, California (the "**City Property**") as described and depicted in Attachment A. The City issued a Request for Proposals for 2330 Monroe Street / San Tomas And Monroe dated March 30, 2018 with respect to the development of the City Property ("**RFP**"). Developer's proposal in response to the RFP was selected.

D. Developer desires to acquire a leasehold interest in the City Property. The leasehold interest in the City Property shall be conveyed to Developer from the City, together with a fee interest in all buildings, structures, fixtures, landscaping and other improvements erected or located thereon, and all easements, rights of way, privileges, licenses, appurtenances and other rights and benefits belonging to or in any way related to the City Property including minerals, oil and gas rights, air, water and development rights, roads, alleys, easements, streets and ways adjacent to the City Property (collectively, the "**Property**").

E. Developer shall develop the Property in accordance with the applicable conditions of approval issued by the City of Santa Clara.

F. Developer intends to develop upon the Property 65 units of housing. As of the date of this Agreement, the Parties anticipate that units will be leased as follows: (a) 16 units to be leased to 30% AMI Households who qualify as persons with developmental disabilities; (b) 10 units to be leased to 50% AMI Households; (c) 13 units to be leased to 60% AMI Households; (d) 16 units to be leased to 80% AMI Households; (e) 9 units to be leased to 120% AMI Households; and (f) 1 unit as a manager's unit (the "**Management Unit**"). The foregoing units to be developed on the Property, excluding the Management Unit, are referred to herein as the "**Affordable Units**". Developer also intends to include a community room, property management and social services offices, an exercise room, a library/game room, onsite laundry, an All Abilities play area, and an outdoor fitness path. Developer's leasehold interest in the City

Property, and fee interest in the Improvements located thereon, together with the development thereof in accordance with this Agreement, are referred to herein as the "**Project**").

G. Developer requires assistance from City in order to develop and construct the Project. City has agreed to assist Developer with (1) a seller takeback loan in the amount of $5,200,000 (the "**Seller Loan**") to finance the capitalized rent under the Ground Lease (as defined below), and (2) a loan of up $6,500,000 (the "**City Loan**"), provided that the Affordable Units are held for rent and rented to Qualified Tenants in accordance herewith. The total development cost of the Project is estimated to be approximately $38,000,000.

H. Developer intends to form a limited partnership (the "**Tax Credit Partnership**") to own and finance the Project and who will be the successor in interest under this Agreement as to Developer's rights and obligations regarding the Project. The Tax Credit Partnership would secure other construction and permanent financing sources to cover the total cost of developing the Project. The anticipated funding sources for the Project include the sources shown in the Financing Summary attached as Attachment E to this Agreement.

I. Developer and City agree that the Seller Loan and the City Loan will facilitate the development of affordable rental housing and provide an opportunity for a more comprehensive and coordinated project consistent with and in furtherance of the goals and objectives of the City's Housing Element of its General Plan.

J. The City and Developer are parties to that certain Disposition and Development Agreement dated for identification purposes only as of January 28, 2020 (the **"Original Agreement**") with respect to the Property. The City and Developer now desire to amend and restate the Original Agreement pursuant to the terms and conditions of this Agreement.

K. The development of the Project as contemplated by this Agreement is consistent with the City's Housing Element, is in the vital and best interest of the City, is necessary for the protection of the health, safety and welfare of the City's residents, and is in accord with the public purposes and provisions of applicable state and local laws and requirements. This Agreement further implements the City's policies for the production of housing for all economic segments of the population.

NOW, THEREFORE, the City and Developer hereby agree as follows:

1. DEFINITIONS

1.1. Defined Terms

As used in this Agreement, the following capitalized terms shall have the following meanings:

"**30% AMI Household(s)**" means a household whose aggregate gross income equals 30% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**50% AMI Household(s)**" means a household whose aggregate gross income equals 50% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**60% AMI Household(s)**" means a household whose aggregate gross income equals 60% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**80% AMI Household(s)**" means a household whose aggregate gross income equals 80% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**120% AMI Household(s)**" means a household whose aggregate gross income equals 120% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**Affiliate**" means any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Developer which, if the party is a partnership or limited liability company, shall include each of the constituent members or general partners, respectively, thereof, or an entity in which Developer has an equity interest and is the managing member, managing partner or controlling shareholder. The term "control" as used in the immediately preceding sentence, means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, more than 50% of the voting rights attributable to the shares of the controlled corporation, and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

"**Affordability Period**" means the period commencing upon Conversion (as defined in the City Loan Agreement) and terminating on the fifty-fifth (55th) anniversary thereof.

"**Affordable Rent**" means an amount of monthly rent, including a reasonable utility allowance, that does not exceed the maximum rent to be charged by Developer and paid by the Qualified Tenant occupying the Affordable Units as determined pursuant to the TCAC Regulations. The tenant utility allowance shall be determined by the Housing & Community Services Division of the City. The calculation of Affordable Rent shall be performed annually.

"**Affordable Units**" is defined in Recital F.

"**Agreement**" means this Amended and Restated Disposition and Development Agreement by and between the City and Developer, including (i) the Recitals set forth herein, and (ii) all attachments hereto, which are incorporated herein by this reference.

"**AMI**" means the median family income figures and standards (adjusted for actual Household size) (I) utilized by TCAC as to 30% AMI Households, 50% AMI Households, 60% AMI Households, and 80% AMI Households; and (II) utilized by HCD pursuant to California Health and Safety Code Section 50093 as to 120% AMI Households.

"**Business Day(s)**" means Monday through Friday, except for federal and state holidays.

"**City**" means the City of Santa Clara, a California municipal corporation.

"**City Advance**" is defined in Section 3.13.

"**City Assignment of Agreements"** shall mean the Assignment of Agreements substantially in the form attached to this Agreement as Attachment M, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Assignment of Rents and Leases"** shall mean the Assignment of Rents and Leases substantially in the form attached to this Agreement as Attachment L-1, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Deed of Trust**" means the Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) securing the City Loan, in substantially the form attached to this Agreement as Attachment K-1, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Environmental Indemnity**" means the Environmental Indemnity, in substantially the form attached to this Agreement as Attachment S, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Indemnitees**" means City and its departments, divisions, agencies, elected officials, boards, officers, employees, representatives and agents.

"**City Lender Policies**" is defined in Section 3.5.2

"**City Loan**" is defined in Recital G.

"**City Loan Agreement**" means the affordable housing loan agreement in substantially the form attached to this Agreement as Attachment I, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Loan Documents**" means the City Loan Agreement, the City Promissory Note, the City Deed of Trust, the City Assignment of Rents and Leases, the City Assignment of Agreements, the City Environmental Indemnity, the City Regulatory Agreement and any amendments and modifications thereto.

"**City Promissory Note**" means the Promissory Note evidencing the City Loan in substantially the form attached to this Agreement as Attachment J-1, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Property**" is defined in Recital C.

"**City Regulatory Agreement**" means the affordable housing regulatory agreement entered into in connection with the City Loan substantially in the form attached to this Agreement as Attachment P, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Representative**" means the City Manager of the City or his or her designated representative.

"**City's Conditions Precedent to Closing**" is defined in Section 3.7.1.

"**Closing**" means the date following Developer's delivery of the Closing Notice to City upon which the conditions precedent set forth in Section 3.7.1 and 3.7.2 are satisfied or waived in writing and the Conveyance Documents are recorded in the Official Records conveying the Property to Developer and the City has made the City Loan to Developer.

"**Closing Notice**" is defined in Section 3.3.

"**Construction Budget**" means the schedule of construction expenses actually and expected to be incurred by Developer in connection with the Project and reasonably approved by the City prior to the Closing, and as may be amended or modified pursuant to the City Loan Documents.

"**Construction Contract**" is defined in Section 5.3.

"**Construction Lender**" means a lender providing construction financing for the Project selected by Developer in its sole and absolute discretion.

"**Construction Loan**" means the loan for construction of the Project from Construction Lender.

"**Construction Loan Documents**" means any agreements and documents evidencing or securing the Construction Loan and includes all attachments, modifications and amendments thereto.

"**Conveyance Documents**" means, collectively, the Grant Deed, if requested by Developer, and the Ground Lease Memorandum.

"**County**" means Santa Clara County.

"**County Loan**" means that certain proposed loan from County to Developer in the amount of up to $3,200,000.

"**Developer**" means Freebird Development Company, LLC, a California limited liability company, and its successors and assigns as permitted pursuant to this Agreement.

"**Developer's Conditions Precedent to Closing**" is defined in Section 3.7.2.

"**Development Costs**" shall mean the total cost of developing and constructing the Project, as set forth in the Construction Budget.

"**Disbursement Agreement**" means a disbursement agreement, if requested by the Construction Lender, among the City, the Construction Lender, and Developer, which shall substantially include the terms and conditions in the list attached hereto as Attachment N, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Economic Event**" is defined in Section 8.7.

"**Effective Date**" means the date upon which this Agreement shall have been signed by Developer and the City and the City Advance has been paid to the City.

"**Eligible Project Costs**" means all costs and expenses permitted and approved pursuant to this Agreement as set forth in the Construction Budget which are customarily incurred and shall have been actually incurred by Developer for the development and construction of the Project and shall include, without limitation, the following: construction costs; a developer fee in an amount not to exceed that permitted by the TCAC Regulations; property taxes and assessments; security services; utilities fees; insurance; and such other costs, fees and expenses, as agreed to in writing by the City; provided, however, that payment to parties related to Developer for Eligible Project Costs must not exceed reasonable and customary market rates.

"**Entitlements**" means and includes any and all general plan amendments, zoning approvals or changes, required approvals and certifications under the California Environmental Quality Act, tentative and final tract maps, variances, conditional use permits, demolition permits, excavation/foundation permits, grading permits, building permits, inspection reports and approvals, certificates of occupancy, and other approvals, permits, certificates, authorizations, consents, orders, entitlements, filings or registrations, and actions of any nature whatsoever required from any applicable governmental authorities in order to commence and complete the construction of the Project or any of the proposed development on the Project.

"**Environmental Laws**" means any and all present and future federal, state and local laws (whether under common law, statute, ordinance, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities relating to the environment or to any Hazardous Materials or Hazardous Materials Activity (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601, *et seq*.), as heretofore or hereafter amended from time to time ("CERCLA"), and the applicable provisions of the Health & Safety Code and the Water Code, and any and all successor statutes and regulations, orders, decrees, guidelines, or pronouncements promulgated thereunder).

"**Escrow**" is defined in Section 3.3.

"**Escrow Agent**" means Old Republic Title Company or such other escrow agent reasonably approved by the City and Developer.

"**Escrow Costs**" is defined in Section 3.3.

"**Event of Default**" is defined in Section 7.1.

"**Event(s) of Force Majeure**" is defined in Section 8.7.

"**Evidence of Financing**" is defined in Section 5.1.

"**Financing Summary**" means the Financing Summary attached as Attachment E and incorporated hereby, which shows the estimated sources and uses for the development and construction of the Project, as may be updated in accordance herewith; upon approval of a Project Pro Forma by the City, the approved Project Pro Forma shall constitute the Financing Summary.

"**General Contractor**" shall mean CORE General Contractor Inc., or such other general contractor as may be approved by City.

"**Governmental Regulations**" means any local, state, and federal laws, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, Environmental Laws, labor relations, prevailing wage, notification of sale to employees, Hazardous Materials, occupational health and safety, water, earthquake hazard reduction and building and fire codes; and including the National Environmental Policy Act (NEPA) and all Environmental Laws) bearing on the demolition, alteration, replacement, repair, refurbishing, improvement, construction, maintenance, management, use, or operation of the Project.

"**Grant Deed**" shall mean the Grant Deed substantially in the form attached to this Agreement as Attachment Q, pursuant to which the City will convey a fee interest in the Improvements to Developer.

"**Ground Lease**" means the Ground Lease between the City, as landlord, and Developer, as tenant, providing Developer with a leasehold interest in the City Property substantially in the form attached to this Agreement as Attachment G, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Ground Lease Memorandum**" means the Memorandum of Ground Lease between the City, as landlord, and Developer, as tenant, evidencing the Ground Lease, to be recorded against the City Property in the Official Records upon the Closing, in substantially the form attached to this Agreement as Attachment H, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Hazardous Materials**" means any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Materials Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Materials), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated byphenyls, (viii) methyl tertiary butyl ether, (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Division 4, Chapter 20, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, *et seq*. (42 U.S.C. Section 6903) or (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections

9601, *et seq*., but shall not include, customary building maintenance and cleaning products, construction products, and landscape maintenance products as are used, stored, handled, transported, treated and disposed of in compliance with Environmental Laws by owners and operators of properties similar to the Project.

"**Household**" means one or more persons occupying an Affordable Unit.

"**Improvements**" means and includes any buildings, structures, fixtures, foundations, excavation, parking, landscaping, or underground installations located on the City Property.

"**Insurance Requirements**" means the City's insurance requirements attached as Attachment D and incorporated hereby.

"**Investor Limited Partner**" means, collectively, one or more investor limited partners selected by Developer in its sole and absolute discretion to be the limited partner(s) in the Tax Credit Partnership.

"**Loan Proceeds**" means funds disbursed from the City Loan.

"**Losses and Liabilities**" means and includes all claims, suits, causes of action, arbitration proceedings, administrative proceedings, regulatory proceedings, expenses, liabilities, losses, damages (including, without limitation, penalties, fines and monetary sanctions), injuries, charges, penalties or costs of whatsoever character, nature and kind, including reasonable attorney's fees and costs, expert witness fees, court costs, interest and defense costs, consultant fees, investigation and laboratory fees, and remedial and response costs incurred by the indemnified party with respect to counsel of its choice, whether to property or to person, whether by direct or derivative action, and whether known or unknown, suspected or unsuspected, latent or patent, actual alleged or threatened.

"**Management Unit**" is defined in Recital F.

"**Notice**" means a notice in the form prescribed by Section 8.1 hereof.

"**Official Records**" means the official records of the Santa Clara County Recorder's Office.

"**Outside Closing Date**" is the date indicated in the Schedule of Performance.

"**Parties**" means the City and Developer, and any permitted successors and assigns thereof.

"**Permanent Loan**" shall mean any permanent loan, in an amount not to exceed the Construction Loan except as reasonably approved by the City, for the Project to be made to Borrower by the Construction Lender or other lender in accordance with the Project Pro Forma following Conversion, secured by a deed of trust against the Project.

"**Permitted Transfer**" is defined in Section 2.3.2.

"**Project**" is defined in Recital F.

"**Project Pro Forma**" means the financial information to be prepared by Developer, and any updates and amendments thereto, including without limitation, the Project construction budget, estimated sources and uses of financing, and the Project's operating budget and reasonably approved by the City as of the date of Closing.

"**Property**" is defined in Recital D.

"**Qualified Tenant(s)**" means a Household who qualifies as a 30%, 50%, 60%, 80%, and/or 120% AMI Household, as applicable.

"**Schedule of Performance**" means the Schedule of Performance attached hereto as Attachment B and incorporated hereby as may be amended from time to time, which establishes the dates and/or time periods by which certain obligations set forth in this Agreement must be accomplished, subject to Events of Force Majeure. The Schedule of Performance may be subject to revision from time to time as mutually agreed on in writing between Developer and the City.

"**Seller Assignment of Rents and Leases"** shall mean the Assignment of Rents and Leases substantially in the form attached to this Agreement as Attachment L-2, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Seller Deed of Trust**" means the Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) securing the Seller Loan, in substantially the form attached to this Agreement as Attachment K-2, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Seller Loan**" is defined in Recital G.

"**Seller Loan Documents**" means the Seller Promissory Note, the Seller Deed of Trust, the Seller Assignment of Rents and Leases and any amendments and modifications thereto.

"**Seller Promissory Note**" means the Promissory Note evidencing the Seller Loan in substantially the form attached to this Agreement as Attachment J-2, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Senior Lender**" means any lender of a Senior Loan.

"**Senior Loan**" means the Construction Loan and the Permanent Loan (but sequentially and not concurrently), and any other loan in the Project Pro Forma with a principal amount in excess of the [aggregate amount of the Seller Loan plus the]City Loan.

"**Senior Loan Documents**" means any agreements and documents evidencing or securing a Senior Loan and includes all attachments, modifications and amendments thereto.

"**Social Services**" means the social services to be provided to residents of the Project, which shall include, at a minimum, services for households with intellectual and/or developmental disabilities.

"**State**" means the State of California.

"**Subordination Agreement**" means an agreement between a Senior Lender and the City in such form as is reasonably approved by the City that subordinates the City Loan and City Loan Documents and Seller Loan and Seller Loan Documents to the applicable Senior Loan and Senior Loan Documents and contains such other terms as may be required by the applicable Senior Lender that are reasonably approved by the City; provided, however, that the City Regulatory Agreement shall not be subordinated.

"**Tax Credit Partnership**" is defined in Recital G.

"**Tax Credit Regulatory Agreement**" means the regulatory agreement that will be recorded against the Project with respect to the Tax Credits.

"**Tax Credits**" means Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code.

"**TCAC**" means the California Tax Credit Allocation Committee.

"**TCAC Regulations**" means the California Tax Credit Regulations Implementing the Federal and State Low Income Housing Tax Credit Laws, California Code of Regulations, Title 4, Division 17, Chapter 1.

"**Title Company**" means Old Republic Title Company.

"**Unit(s)**" means any or all of the apartment units in the Project, including the Affordable Units and/or the Management Unit.

1.2. Singular and Plural Terms

Any defined term used in the plural herein shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3. Accounting Principles

Any accounting term used and not specifically defined herein shall be construed in conformity with, and all financial data required to be submitted herein shall be prepared in conformity with, generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to the City Representative.

1.4. References and Other Terms

Any reference to any document shall include such document both as originally executed and as it may from time to time be modified. References herein to Sections and Attachments shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The term "document" is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material

of every kind. The terms "including" and "include" mean "including (include), without limitation."

1.5. Attachments Incorporated; Attachments Additional Consideration

All Attachments, as now existing and as the same may from time to time be modified, are incorporated herein by this reference. Each Attachment or agreement delivered by Developer or another party substantially in the form of an Attachment hereto in connection with this Agreement is required as and constitutes consideration for the City to make the City Loan and the Seller Loan.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS

2.1. Representations by City.

City represents and warrants to Developer, as of the Effective Date and as of the Closing, as follows:

2.1.1. Authority.

City is a California municipal corporation possessed of full right, power and lawful authority to perform its obligations hereunder, and the execution, delivery, and performance of this Agreement by City has been fully authorized by all requisite actions on the part of the City Council.

2.1.2. No Conflict.

City's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which City is a party or by which City is bound.

2.1.3. No Litigation or Other Proceeding.

To City's current actual knowledge, no litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened which would prevent, hinder or delay the ability of City to perform its obligations under this Agreement, or that would adversely affect the City Property, or Developer's use and development of the Property.

2.1.4. Eminent Domain.

To City's actual current knowledge there are no condemnation or eminent domain proceedings which are pending or have been threatened that affect the City Property.

2.1.5. Condition of City Property.

City has no notice of any pending or threatened action or proceeding arising out of the condition of the City Property or any alleged violation of any Environmental Law or Governmental Regulations. To City's actual current knowledge, the City Property is in compliance with all Environmental Laws and Governmental Regulations.

Each of the foregoing representations in this Section 2.1 shall be deemed to be an

ongoing representation and warranty, and until the expiration or earlier termination of this Agreement, City shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.1 not to be true, promptly give written notice of such fact or condition to Developer. Notwithstanding anything to the contrary in this Agreement, the foregoing representations and warranties of City shall survive the Closing of this Agreement for a period of twelve (12) months. After Closing, the City's liability for any breach of this Section 2.1 shall be limited to the portion of the City Advance actually retained by City.

2.2. Representations by Developer.

Developer represents and warrants to the City, as of the Effective Date and as of the Closing, as follows:

2.2.1. Organization

Developer is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own property and carry on its business as now being conducted and as contemplated hereby. The copies of the documents evidencing the organization of Developer delivered to the City are true and correct copies of the originals as of the Effective Date.

2.2.2. Authority

Developer has the legal power, right and authority to execute, deliver and enter into this Agreement, and to perform and observe the terms and provisions of this Agreement. Developer has been fully authorized to execute this Agreement and all other documents or instruments to be executed and delivered, pursuant to this Agreement, and all actions required under Developer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered pursuant hereto, have been duly taken.

2.2.3. Valid and Binding Agreements

This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will constitute when so executed and delivered, legal, valid and binding obligations of Developer enforceable against it in accordance with the terms of each respective document or instrument.

2.2.4. Litigation

No action, suit or proceedings are pending or, to Developer's current actual knowledge, threatened before any governmental department, commission, board, bureau, agency or instrumentality to which Developer is or may be made a party or to which any of its property is or may become subject, which has not been fully disclosed to the City and which could adversely affect the ability of Developer to carry out its obligations hereunder.

2.2.5. No Conflict

Developer's execution and delivery of this Agreement and any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, and the performance of any provision, condition, covenant or other term hereof or thereof, do not or will not conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on Developer, or any provision of the organizational documents of Developer, or will conflict with or constitute a breach of or a default under any agreement to which Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of Developer, other than liens established pursuant hereto.

2.2.6. No Developer Bankruptcy

No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, receivership or other proceedings are pending or, to Developer's current actual knowledge, threatened against Developer or any other parties affiliated with Developer, nor are any of such proceedings contemplated by Developer or any parties affiliated with Developer.

2.2.7. Financing Summary; Project Pro Forma

For purposes hereof, the Financing Summary attached hereto shall constitute the Financing Summary as of the Effective Date. The Financing Summary and any written updates thereto provided to the City constitute Developer's reasonable estimates as of the anticipated financing for the development of the Project. To Developer's actual knowledge after due inquiry, there are no material omissions from the Financing Summary, and Developer agrees and acknowledges that the City is relying on the information set forth therein in making the City Loan and the Seller Loan.

Developer shall submit to the City for approval a Project Pro Forma within 60 days of the Effective Date. The Project Pro Forma and any written updates thereto provided to the City constitute Developer's reasonable estimates as of the date of the Project Pro Forma with respect to the information set forth therein, and shall include the Financing Summary and any updates thereto. Developer shall submit to the City any changes or updates to the Project Pro Forma (or a notice that there has been no such change) within two (2) weeks of each March 31, June 30, September 30 and December 31 after the date hereof, and in any event at the Project Pro Forma to be included in the application for Tax Credits and/or tax-exempt financing, if applicable, at least 20 days prior to the submission of any such application. To the actual knowledge of Developer after due inquiry, there are no material omissions from the Financing Summary or any updates thereto, and Developer agrees and acknowledges that the City is relying on the information set forth therein in making the City Loan and the Seller Loan.

Each of the foregoing representations in this Section 2.2 shall be deemed to be an ongoing representation and warranty, and until the expiration or earlier termination of this Agreement, Developer shall upon learning of any fact or condition which would cause any of the representations and warranties in this Section 2.2 not to be true, promptly give written notice of such fact or condition to City. Notwithstanding anything to the contrary in this Agreement, the

foregoing representations and warranties of Developer shall survive the Closing of this Agreement for a period of twelve (12) months.

2.3. Limitation Upon Change in Ownership, Management and Control of Developer

The identity and qualifications of Developer and its respective members, officers and/or partners as experienced and successful developers and operator/managers of affordable housing are of particular concern to the City. It is because of this identity and these qualifications that the City has entered into this Agreement with Developer. No voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

2.3.1. Prohibition

Except for Permitted Transfers, Developer shall not transfer or assign all or any part of this Agreement, or any interest herein, permit any change in the management or control of Developer, or permit a transfer of more than 25% of the equity interests Developer, without the prior written approval of the City, which may be withheld in its sole and absolute discretion. Any such change (or assignment of this Agreement in connection therewith) shall be by instruments satisfactory to the City, and be subject to the approval by the City of evidence of the proposed assignee's qualifications to meet the obligations of Developer under this Agreement.

2.3.2. Permitted Transfers by Developer

Notwithstanding any other provision of this Agreement, the City approval of an assignment of this Agreement or any interest herein shall not be required in connection with any of the following (each a "**Permitted Transfer**"): nominating the Tax Credit Partnership to take title to the Project at the Closing, or any assignment or transfer of this Agreement to the Tax Credit Partnership, provided that in either event, the City has reasonably approved all general partners thereof.

2.3.3. City Consideration of Requested Transfer

Except for Permitted Transfers, Developer shall provide the City with thirty (30) calendar days' prior written notice of its intent to assign or transfer all or any part of this Agreement or effect a change in the management or control of Developer and shall request any approval sought for such assignment or transfer, which approval may be withheld by the City in its sole and absolute discretion. The notice shall be accompanied by evidence regarding the proposed transferee's development, operation and management qualifications and experience and its financial commitments and resources sufficient to enable the City to evaluate whether the proposed assignee or purchaser is qualified and capable to perform Developer's obligations pursuant to this Agreement.

Within thirty (30) calendar days, or, if City Council approval is required, forty-five (45) calendar days, after the receipt of Developer's written request for the City approval of an assignment or transfer pursuant to this Section 2.3.3, the City shall respond in writing either approving or disapproving the proposed assignee or transferee or requesting further information required by the City in order to determine whether or not to grant the

requested approval. Upon receipt of such a request for further information, Developer shall promptly furnish to the City such requested information.

If the City fails to approve or disapprove the requested transfer or assignment within the thirty (30) calendar days after receipt of Developer's written request (or receipt of any further information reasonably requested by City), Developer may send a second and final notice, together with a clear statement indicating that if City does not act upon such request within fifteen (15) days following receipt of this second notice, the request shall be deemed approved. Failure of the City to act within this fifteen (15) day period shall be deemed an approval of the request, provided Developer has included a statement to that effect in its second and final notice and has provided in a timely manner all other information required in connection with City's review of such request. The City shall not unreasonably withhold, condition or delay its approval of an assignment or transfer to a proposed assignee or transferee who, in the reasonable opinion of the City, is financially capable and has the development and operational qualifications and experience to perform the duties and obligations of Developer hereunder. Developer shall promptly pay the City's costs of evaluating and consummating any request for assignment or transfer, including any reasonable attorneys' fees or costs.

3. DISPOSITION OF SITE; ENVIRONMENTAL MATTERS

3.1. Transfer of the Property

The City is the owner in fee of the City Property. In consideration of payment of the covenants and consideration as set forth in this Agreement, upon satisfaction or waiver of the City's Conditions Precedent to Closing, the City shall enter into the Ground Lease and Ground Lease Memorandum. Developer agrees to enter into the Ground Lease and Ground Lease Memorandum upon satisfaction or waiver of Developer's Conditions Precedent to Closing. The Closing shall occur no later than the Outside Closing Date, subject to Events of Force Majeure.

3.2. Access; Condition of the Property; Environmental

3.2.1. Access to PropertyPrior to the Closing, City shall cooperate to enable representatives of Developer to obtain the right of access to all portions of the City Property for the purpose of obtaining data and making surveys and tests which Developer determines are reasonably necessary or desirable, including the investigation of the soils and environmental condition of the City Property. Developer agrees to provide written notice to City at least twenty-four (24) hours prior to undertaking any studies or work upon the City Property. Developer shall keep the City Property free and clear of any liens and indemnify, defend, protect and hold City harmless from any claims arising out of the acts, omissions, negligence or willful misconduct of Developer or its employees, agents, contractors or representatives in connection with such studies and investigations, except for claims arising from or related to any pre-existing condition on or of the City Property or claims to the extent caused by the negligence or willful misconduct of City or its employees, agents, contractors or representatives. If any inspection or test conducted by or expressly on Developer's behalf disturbs the Property, Developer will restore the Property to substantially the same condition as existed prior to any such inspection or test. Prior to any entry or access to the City Property, Developer will provide the City with evidence that Developer has in place a policy of commercial general liability insurance in an amount not less than $2,000,000.00 per occurrence covering any accident arising in connection with Developer or its employees and authorized agents, representatives, contractors and

consultants entry upon the City Property, naming the City as additional insured. The obligations of Developer under this Section 3.2.1 shall survive the termination of the Agreement.

3.2.2. Disclosure

The City hereby represents and warrants to Developer that, to the best of the City's knowledge, the City has not received any prior written notice or communication from any government agencies having jurisdiction over the City Property, or from any other third party, notifying the City or any third party of the presence of surface or subsurface zone Hazardous Materials in, on, adjacent to, or under the City Property, or any portion thereof.

3.2.3. Developer's Investigation of the Property

Developer has had full access to Property and the opportunity to obtain additional information and documentation as Developer deems necessary to evaluate the Property, to investigate and study the condition of the Property, and to make submissions and applications to all applicable governmental authorities with respect to the Entitlements. Developer acknowledges that except for the representations, warranties and covenants of the City contained in this Agreement, Developer has relied and shall rely solely upon (i) its own expertise and that of Developer's consultants in purchasing the Property, and (ii) Developer's own knowledge of the Property based on its investigations and inspections of the Property. Developer has conducted such inspections and investigations of the Property as Developer deemed or shall deem necessary, including, but not limited to, the physical and environmental conditions of the Property. Except for the City's representations, warranties and covenants and as may be expressly provided herein, upon Closing, Developer acknowledges and, as between the City and Developer, shall assume the risk, that there may be adverse matters, including, but not limited to, adverse physical and environmental conditions, that are not known to the City and that may not have been revealed by Developer's inspections and investigations. Developer acknowledges and agrees that except for the representations and warranties of the City herein, upon Closing, the City shall convey to Developer and Developer shall accept the Property "AS IS, WHERE IS," with all faults and defects (latent and apparent). Except for the representations and warranties of the City contained herein and in any documents executed and delivered by the City at Closing pursuant to this Agreement, Developer further acknowledges and agrees that there are no oral agreements, warranties or representations, collateral to or affecting the Property by the City or any agent, employee or contractor of the City or any third party. The City is not liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Property furnished by the City, or any real estate broker, contractor, agent, employee, servant or other person, unless the same are specifically set forth in this Agreement or any other documents executed and delivered by the City at Closing pursuant to this Agreement. Developer acknowledges that the consideration that Developer is delivering to the City reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Property. Developer has fully reviewed the disclaimers and waivers set forth in this Agreement with its counsel and understands the significance and effect thereof.

3.3. Escrow

Not later than sixty (60) days prior to Closing, the Parties shall open escrow (the

"**Escrow**") with Escrow Company for the conveyance of the Property and the closing of the City Loan and the Seller Loan. The Closing shall occur no later than the "Outside Closing Date" stated in the Schedule of Performance, subject to Events of Force Majeure. The Closing shall occur on a date selected by Developer in a written notice to City received at least 30 days in advance of the selected Closing date (the "**Closing Notice**"). If the City does not receive a Closing Notice at least 30 days prior to the Outside Closing Date, the Closing shall occur on the Outside Closing Date.

Developer shall pay and be solely responsible for any documentary transfer taxes in connection with the conveyance of the Property to Developer, and any and all title, recording, escrow and closing costs in connection herewith (the "**Escrow Costs**"), except for the costs and expense of the City's own consultants, and Developer shall prepare and enter into such escrow instructions as are reasonably acceptable to Developer, the City and Escrow Agent.

3.4. [Intentionally deleted.]

3.5. Title Insurance

3.5.1 Concurrently with the Closing, Title Company shall issue to Developer (or its permitted nominees or assignees), at Developer's cost, an owner's policy of title insurance, in such amounts and with such endorsements as agreed to between Developer and the Title Company, which at Developer's option may be an ALTA extended coverage owner's policy provided that Developer satisfies all requirements therefor (the "**Developer Title Policy**") (provided, however, that it shall not be a Developer Condition Precedent to Closing that any Developer Title Policy be in any particular amount or include any specific endorsements), insuring that Developer has a valid leasehold interest in the Project, subject only to (A) the lien of non-delinquent real property taxes and assessments, (B) the exceptions to title identified on Attachment F hereto (the "**Permitted Exceptions**"), and (C) agreements expressly required by this Agreement to be recorded at the Closing. The City shall, at no cost or expense to the City, cooperate with and assist Developer in obtaining such policy, including providing any required indemnities or affidavits that are customary and commercially reasonable.

3.5.2 Concurrently with the Closing, Title Company shall issue to the City, at Developer's cost, lender's policies of title insurance in the amounts of the City Loan and the Seller Loan, respectively, which at City's option may be a 2006 ALTA extended coverage lender's policy, together with such endorsements as are reasonably requested by the City (collectively, the "**City Lender Policies**"), insuring (a) the lien of the City Deed of Trust to be a first priority lien on the Project after the lien of the Senior Loans and (b) the Seller Deed of Trust to be a second priority lien on the Project after the lien of the Senior Loans, and containing such endorsements as the City may reasonably require, which may include zoning, survey, access, parcel contiguity, environmental, tax parcel, and subdivision endorsements, subject only to the (A) the lien of non-delinquent real property taxes and assessments, (B) the Permitted Exceptions, (C) agreements expressly required by this Agreement to be recorded at the Closing, (D) the lien of the Senior Lenders, and (E) any exception to title which may be approved by the City.

3.6. Submittals into Escrow for the Closing

The Parties shall submit documents and funds into Escrow for the Closing as set forth in this Section.

3.6.1 Submittals by Developer

At least five (5) Business Day prior to Closing (unless otherwise indicated below), Developer shall submit into Escrow the following:

(A) The Conveyance Documents to the extent signed by Developer, duly executed by Developer and acknowledged.

(B) The Ground Lease, duly executed by Developer.

(C) The City Loan Documents, duly executed by Developer and acknowledged where appropriate.

(D) The Seller Loan Documents, duly executed by Developer and acknowledged where appropriate.

(E) The Disbursement Agreement (if applicable), duly executed by City, Developer, and the Construction Lender (which may be deposited with Escrow one (1) Business Day prior to the Closing date).

(F) Any other documents or other deliverables reasonably requested by the City or the Escrow Agent (which may be deposited with Escrow one (1) Business Day prior to the Closing date).

(G) Sufficient funds to pay costs of escrow and title to effect the conveyance of the Property to Developer (which amounts may be deposited with Escrow on the Closing date).

3.6.2 Submittals by the City

At least one (1) Business Day prior to Closing, the City shall submit into Escrow the following:

(A) The Conveyance Documents, duly executed by the City and acknowledged.

(B) The Ground Lease, duly executed by the City.

(C) The City Loan Documents, duly executed by the City and acknowledged where appropriate.

(D) The Disbursement Agreement, if applicable.

(E) A non-foreign transferor certification in accordance with the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and a California Form 593 certificate, each in a form acceptable to Developer and Escrow Agent and executed by City.

(F) Any other documents or other deliverables reasonably requested by Developer or the Escrow Agent.

(G) The proceeds of the City Loan, in accordance with the City Loan Documents.

3.7. Conditions Precedent to Closing

The Closing is conditioned upon satisfaction of the terms and conditions set forth in this Section.

3.7.1 The City's Conditions.

The City's obligation to close Escrow and convey the Property to Developer is conditioned upon the satisfaction or written waiver of each and every one of the conditions precedent described below ("**City's Conditions Precedent to Closing**"), which are solely for the benefit of the City, and which shall be satisfied or waived by the time periods provided for herein. The City at its option may terminate this Agreement if any of the conditions precedent set forth below are not satisfied by Developer or waived in writing by the City by the Outside Closing Date, subject to Events of Force Majeure.

(A) Execution of Documents. Developer and any third party shall have executed and delivered into Escrow the documents listed in Section 3.6.1.

(B) Deposit of Funds. Developer shall have deposited or caused to be deposited all funds necessary for the Closing or otherwise required pursuant to this Agreement.

(C) Certificates of Good Standing; Authority. Developer shall have delivered to the City certificates of good standing, dated within thirty (30) days of the Closing, and resolutions or consent of Developer authorizing the acquisition of the Property.

(D) Evidence of Financing. Developer shall have submitted and the City Representative shall have approved Developer's Evidence of Financing in accordance with this Agreement.

(E) City Loan. Developer shall have satisfied all conditions precedent to the closing of the City Loan set forth in Attachment No. 6 of the City Loan Agreement.

(F) City Lender Policies. The City shall have received from Title Company an irrevocable commitment to issue the City Lender Policies upon the recordation of the City Deed of Trust and Seller Deed of Trust.

(G) Entitlements. The City shall have received evidence reasonably acceptable to it that Developer has obtained all Entitlements necessary for the construction of the Project, provided that ready-to-issue letters with respect to building permits shall be acceptable.

(H) Labor Compliance. The City shall have received evidence reasonably acceptable to it that the construction of the Project and the payment of all wages in connection therewith shall be in accordance with the provisions of California Labor Code §§ 1720 through 1861 (the "**Prevailing Wage Law**") , to the extent applicable to the Project.

(I) Insurance. Developer, at its cost, shall have procured and be maintaining in full force and effect insurance consistent with the Insurance Requirements, and Developer shall have provided the City with evidence of insurance.

(J) No Litigation. No litigation shall be pending or threatened by any third parties which seeks to enjoin the transactions contemplated herein or challenge or overturn the Entitlements.

(K) No Default. There shall exist no condition, event or act which would constitute an Event of Default under this Agreement, or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

(L) Representations and Warranties. All representations and warranties of Developer herein contained and contained in this Agreement shall be true and correct in all material respects as if made on and as of the date of Closing.

3.7.2 Developer's Conditions

Developer's obligation to close Escrow on the Property is conditioned upon the satisfaction or written waiver by Developer of each and every one of the conditions precedent described below (the "**Developer's Conditions Precedent to Closing**"), which are solely for the benefit of Developer, and which shall be satisfied or waived by the time periods provided for herein. Developer at its option may terminate this Agreement if any of the conditions precedent set forth below are not satisfied or waived in writing by Developer by the Outside Closing Date, subject to Events of Force Majeure:

(A) Execution of Documents. The City shall have executed and delivered into Escrow the documents listed in Section 3.6.2.

(B) No Litigation. No litigation shall be pending or threatened by any third parties which seeks to enjoin the transactions contemplated herein.

(C) No Default. There shall exist no condition, event or act which would constitute an Event of Default by the City under this Agreement, or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

(D) Representations and Warranties. All representations and warranties of the City herein contained and contained in this Agreement shall be true and correct as if made on and as of the date of Closing.

(E) Developer Title Policy. The Title Company shall be irrevocably committed to issue the Developer Title Policy upon recordation of the Conveyance Documents.

(F) No Material Adverse Change. There shall not have occurred between the Effective Date and the Closing any material adverse change to the physical or environmental condition of the Property, except to the extent caused by Developer.

(G) No Leases or Parties in Possession. City shall have terminated any and all leases, licenses, and any other occupancy agreements affecting the Property effective no later than the Closing, and City shall have demonstrated the ability to deliver valid leasehold title to the City Property to Developer free and clear of any tenants, lessees, licensees or any third party occupants or parties in possession.

(H) Subordination Agreement. The City shall have executed and delivered to Escrow for recordation in the Official Records the Subordination Agreement(s).

3.7.3 Close of Escrow.

Provided that both Developer's Conditions Precedent to Closing and the City's Conditions Precedent to Closing have been satisfied or waived in writing, the conveyance of the Property to Developer shall close on the date selected by Developer in the Closing Notice. The Closing shall occur on or before the Outside Closing Date, subject to Events of Force Majeure.

3.7.4 Failure of Conditions to Close of Escrow.

In the event any of the City's Conditions Precedent to Closing or the Developer's Conditions Precedent to Closing are not satisfied prior to the Outside Closing Date, then the respective rights of the parties shall be determined under Section 7.2.

3.8. Funding of the City Loan

The City shall not be obligated to disburse any proceeds of the City Loan until the Closing has occurred. No proceeds shall be disbursed from the Seller Loan.

3.9. Indemnification

Following the conveyance of the Property to Developer, Developer agrees to save, protect, defend, indemnify and hold harmless the City Indemnitees from and against any and all Losses and Liabilities (including, without limitation, reasonable attorneys' and consultants' fees, investigation and laboratory fees, and remedial and response costs), but excluding the extent to which such Losses and Liabilities arises from the gross negligence or intentional misconduct of the City, the City Indemnitees, and/or their agents, representatives, invitees, licensees, consultants, and contractors, which may now or in the future be incurred or suffered by the City Indemnitees, by reason of, resulting from, in connection with, or arising in any manner whatsoever as a direct or indirect result of (i) the ownership (or possession) of all or any part of the Property for purposes of any Governmental Regulations regulating Hazardous Materials with respect to any environmental or other condition of the Property relating to any Hazardous Materials not existing before the Closing and first released onto the Property and/or occurring following the Closing and not caused by the gross negligence or willful misconduct City or City Indemnitees, (ii) any act or omission on the part of Developer, or its representatives, contractors, volunteers, or invitees with respect to the Property; (iii) the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person resulting from the negligence, intentional acts or omissions of Developer, its officers, agents, volunteers, contractors or employees, in the performance of its obligations under this Agreement, (iv) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials first released and/or occurring on the Property following the Closing and not caused by the gross negligence or willful misconduct City or City Indemnitees, (v) any environmental or other condition of the Property relating to any Hazardous Materials not existing before the Closing and first released and/or occurring following the Closing and not caused by the gross negligence or willful misconduct City or City Indemnitees. Developer's obligations under this Section shall survive the termination of this Agreement.

3.10. Occupants of the Property

The Property shall be conveyed to Developer free of any possession or right of possession by party except that of Developer.

3.11. Zoning of the Property

It is the responsibility of Developer, without cost to the City, to ensure that zoning of the Property and all applicable City land use requirements will be such as to permit development of the Project and the use, operation and maintenance of the Improvements in accordance with the provisions of this Agreement. Nothing contained herein shall be deemed to entitle Developer to any City permit or other City approval necessary for the development of the Property, or waive any applicable City requirements relating thereto. This Agreement does not (a) grant any land use entitlement to Developer, (b) supersede, nullify or amend any condition which may be imposed by the City in connection with approval of the development described herein, (c) guarantee to Developer or any other party any profits from the development of the Property, or (d) amend any City laws, codes or rules. This Agreement is not a development agreement as provided in Government Code Section 65864 et seq.

3.12. Release

On and after the Closing, Developer hereby waives, releases and discharges the City Indemnitees, from any and all present and future claims, demands, suits, legal and administrative proceedings, and from all liability for damages, losses, costs, liabilities, fees and expenses (including, without limitation, attorneys' fees), including any special or consequential damages, arising out of or in any way connected with the City's or Developer's use, maintenance, ownership or operation of the Property, any Hazardous Materials on the Property, or the existence of Hazardous Materials contamination in any state on the Property, however the Hazardous Materials came to be placed there, except for those arising out of (i) the gross negligence, intentional misconduct, or fraud of the City or its employees, officers or agents, or (ii) any breach by City of this Agreement (including but not limited to breaches of representations and warranties of City expressly set forth herein) or the other agreements that City enters into pursuant to this Agreement, including but not limited to the Ground Lease, the City Loan Documents and the Seller Loan Documents, or (iii) any third party breach of contract claim or third party tort claims brought against Buyer for personal injury, wrongful death or personal property damage, in each case arising out of events occurring during City's ownership of the Property. Developer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." To the extent of the release set forth in this Section, Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

3.13. City Advance. Within five (5) business days of execution of this Agreement by Developer and City, Developer shall deliver to City the amount of $40,000 (the "**City Advance**"); provided that Developer shall receive a credit against the City Advance in the

amount of $25,000, reflecting a previous payment from Developer to the City pursuant to the Exclusive Negotiating Rights Agreement entered into as of December 19, 2018 between Developer and City.

The City Advance shall be used by the City for reasonable costs and expenses in connection with this Agreement, the documents attached hereto, ancillary documents and the transactions described therein (collectively, "**Consultant Costs**"). If, as of the earlier of the date of Closing or the Outside Closing Date, any portion of the City Advance has not been utilized for Consultant Costs, the remaining balance of the City Advance shall be returned to Developer.

If at any time the City reasonably expects to expend more than the City Advance for Consultant Costs prior to the earlier of the date of Closing or the Outside Closing Date, then the City shall provide written notice of such expenditure, which notice shall include a schedule of the Consultant Costs that City has incurred, an estimate of the additional Consultant Costs and the additional amount that City is requesting to pay for Consultant Costs. Developer shall either deposit such additional amount with the City, which amount shall be added to the City Advance, or shall provide any written objections within 5 business days of receipt of the request. If Developer provides a written objection, City and Developer shall meet within 5 business days of receipt of the written objection to discuss the requested amount and reach an agreement on the additional amount, and Developer shall deposit the agreed upon amount with the City within 2 business days of such agreement, which amount shall be added to the City Advance.

Notwithstanding anything to the contrary in this Agreement: (a) the City Advance shall be returned to Developer in connection with a termination of this Agreement arising from an Event of Default by the City; and (b) the City Advance shall be retained by City in connection with a termination of this Agreement arising from an Event of Default by Developer.

3.14. Parks and Dwelling Unit Tax Requirements

Developer acknowledges its obligation to comply with Santa Clara City Code Chapter 17.35 (or any successor statute).

Developer acknowledges its obligation to pay a dwelling unit tax per Santa Clara City Code Chapter 3.15 (or any successor statute). Said fees shall be due and payable upon application to the City for a building permit for the construction of any such dwelling unit.

4. FINANCING OF THE AFFORDABLE PROJECT

4.1. Sources of Construction Financing

Developer anticipates that the Development Costs will be financed in accordance with the Financing Summary. Developer shall be permitted to submit a revised Project Pro Forma and financing different from that described herein prior to Closing, which shall be subject to the review and approval of the City in accordance herewith.

4.2. The City Loan and Seller Loan

4.2.1 Closing

As of the Effective Date, the City hereby commits to providing the City Loan and the Seller Loan to Developer, subject to the terms and conditions set forth herein. Upon Closing, the City shall loan to Developer and Developer hereby agrees to borrow from the City, the City Loan and the Seller Loan in accordance with the City Loan Documents and the Seller Loan Documents.

4.2.2 Subordination

Concurrently with Closing, the City shall enter into a Subordination Agreement with each Senior Lender.

5. EVIDENCE OF FINANCING; CONSTRUCTION CONTRACT

5.1. Evidence of Financing

Developer covenants and agrees to submit timely applications for the financing sources set forth in the Financing Summary, and to apply for the Tax Credits by the date set forth in the Schedule of Performance subject to Events of Force Majeure. Developer shall also demonstrate that the sources set forth in the Financing Summary, or such other financing as may be obtained by Developer and approved by the City, will constitute sufficient financing such that the City Representative is reasonably satisfied that the Project can be constructed and operated as proposed by Developer and will be financially feasible.

As a condition precedent to the Closing, Developer shall provide the City with copies of written, enforceable documentation reasonably acceptable to the City that Developer has or will have the right and access to the financing indicated in the Project Pro Forma (collectively, the "**Evidence of Financing**"), which Evidence of Financing shall include, without limitation, executed loan documents for all loans, executed contracts for any rental subsidies, a reservation of Tax Credits from TCAC, and executed syndication documents evidencing the Investor Limited Partner's capital obligations. Upon the Closing, the City shall be deemed to have approved all Evidence of Financing required hereunder.

5.2. Construction Budget; Construction Loan

Prior to the Closing, Developer shall submit to and obtain the City's approval of the Construction Budget, showing the projected predevelopment and construction costs of the Improvements and a sources-and-uses statement showing that the projected funding sources will be available as needed to fund all such projected costs at the time incurred.

The Construction Loan shall be secured by Developer's interest in the Project and the Improvements located thereon. In no event shall the Construction Loan be cross-defaulted with any loan secured by property other than the Project or assets attached to property other than the Project.

5.3. Construction Contract

If the City has not previously approved the Contractor, then at least 45 days prior to the Closing, Developer shall deliver to the City the name, resume and financial statement of the proposed Contractor for approval by the City, which shall not be unreasonably withheld, delayed or conditioned. At least 30 days prior to the Closing, Developer covenants and agrees to deliver to the City a fixed price or guaranteed maximum cost construction contract(s) (the "**Construction Contract**") for all of the Improvements for approval by the City, which shall not be unreasonably withheld, delayed or conditioned, which Construction Contract shall obligate the General Contractor to commence and complete the construction of those Improvements in accordance with the City Loan Agreement and at the price stated in the Construction Contract.

6. COVENANTS AND RESTRICTIONS

6.1. Use Covenants

As set forth in the City Loan Agreement, Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Project or any part thereof, that the Project shall be used, maintained and operated in compliance with the City Regulatory Agreement. Developer further covenants and agrees for itself and its successors and assigns that the Affordable Units shall be continuously occupied or held vacant and made available to Qualified Tenants at an Affordable Rent during the Affordability Period. All uses conducted on the Project, including, without limitation, all activities undertaken by Developer pursuant to this Agreement, shall conform to all applicable provisions of the Santa Clara City Code.

6.2. Nondiscrimination Covenants

As set forth in the City Loan Agreement, Developer covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any Unit or the Project nor shall Developer establish or permit any such practice or practices of discrimination or segregation with reference to the location, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of the Project.

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

All deeds, rental agreements, leases, or contracts made or entered into by Developer as to the Units or the Project or any portion thereof, shall contain and be subject to the following nondiscrimination and nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

b. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in connection with the performance of this contract nor shall the contracting party himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference

to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, contractors, subcontractors or vendees with respect to the premises."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

The covenants established herein shall, without regard to technical classification and designation, be binding on Developer and any successors in interest to the Project, or any part thereof, for the benefit and in favor of the City and its successors and assigns. The covenants against discrimination shall run with the land and remain in effect in perpetuity.

6.3. Social Services

As set forth in the City Loan Agreement, Developer covenants and agrees to provide a Social Services Plan for the Project to the City prior to Closing. Developer covenants and agrees to provide Social Services to the residents of the Project in accordance with the Social Services Plan.

6.4. Leases and Service Contracts.

From the Effective Date hereof until the Closing, City shall not enter into any lease, contract, license or other delegation of right with respect the City Property that would either survive Closing or would reasonably be expected to have an material effect on the condition of the City Property after Closing. City shall also not cause nor voluntarily permit, any new lien, encumbrance or any matter to cause the condition of title to be changed in any way.

6.5. Interim Operation of City Property.

From the Effective Date hereof until the Closing, City shall operate and maintain the City Property, and shall continue to maintain insurance for the City Property, in a manner generally consistent with the manner in which City has operated and maintained the City Property prior to the date hereof.

6.6. Cooperation.

The City shall reasonably cooperate with Developer and support and assist Developer in the processing and permitting of all project related Entitlements from the City and any and all other regulatory agencies with jurisdiction over the Freebird project. The City shall execute any and all applications, forms, and/or certificates as are reasonably required to process all entitlements, maps, and other approvals as reasonably requested by Developer. In the event that an appeal, requesting for rehearing, legal challenge, initiative and/or referendum is brought against any of the Entitlements, the City, at Developer's sole cost and expense, will cooperate with Developer in prosecuting an appropriate defense. Notwithstanding anything to the contrary herein, in no event shall the City be responsible for the cost of any legal fees necessary to defend

the Freebird project. The City's compliance with this Section 6.6 shall not be deemed an approval of, or agreement with respect to, any such matters. The City's obligation to cooperate under this Section 6.6 shall be subject to the condition precedent that Developer provide all required information or documentation relating to such cooperation.

7. DEFAULTS, REMEDIES AND TERMINATION

7.1. Defaults - General

Subject to Events of Force Majeure and any other extensions of time approved in writing by the parties, failure or delay by either party to timely perform, comply with or observe any of the conditions, provisions, terms, covenants or representations of this Agreement, at the time indicated in this Agreement, shall constitute a default under this Agreement. In addition to the foregoing, the following shall constitute a default hereunder: (a) Developer fails to perform an act by the time set forth therefore in the Schedule of Performance subject to Events of Force Majeure; or (b) a petition is filed in bankruptcy, or other bankruptcy or similar proceeding is commenced by or against Developer under any applicable bankruptcy, insolvency or similar law now or hereafter in effect which is not released within ninety (90) days.

As provided hereinbelow, the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with diligence. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the date of default.

Except as required to protect against further damages, the injured party may not institute legal proceedings against the party in default until an Event of Default (as such term is hereinafter defined) has occurred. For purposes of this Agreement, an "**Event of Default**" for purposes of instituting legal proceedings by a non-defaulting party against the defaulting party shall mean that a default as described above has occurred, and such default has continued uncured for thirty (30) calendar days after notice thereof is received (as described in Section 8.1), or, if the default cannot reasonably be cured in thirty (30) calendar days, without the defaulting party commencing to diligently cure within thirty (30) calendar days after notice thereof in writing is received (as described in Section 8.1) by the injured party to the defaulting party; provided, however, that if a different period or notice requirement is specified for any particular default under any other provision of this Agreement, the specific provision shall control; and provided further, that if such failure is not reasonably capable of being cured within such thirty (30) day or different period, despite the defaulting party's good faith and timely efforts, such time as is reasonably necessary to complete such cure, but in no event shall such time exceed ninety (90) calendar days after notice thereof is mailed to the defaulting party. Notwithstanding anything to the contrary herein, a cure period shall not extend the timing requirements set forth in the Schedule of Performance or the Outside Closing Date.

7.2. Remedies and Termination

7.2.1. City's Remedies for Developer Event of Default; Liquidated Damages

If an Event of Default by Developer occurs (including any Event of Default in connection with the failure by Developer to achieve Closing), City, as its sole and exclusive remedy hereunder, shall have the right to terminate this Agreement by delivering written notice thereof to Developer, in which case (a) the City Advance shall be retained by the City as liquidated damages, and (b) Developer shall pay all escrow termination charges, in which event this Agreement shall be terminated.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREUNDER, DEVELOPER AND THE CITY AGREE THAT BASED UPON THE CIRCUMSTANCES NOW EXISTING, KNOWN AND UNKNOWN, IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO ESTABLISH THE CITY'S DAMAGE BY REASON OF DEVELOPER'S DEFAULT UNDER OR ELECTION TO TERMINATE THIS AGREEMENT. ACCORDINGLY, DEVELOPER AND THE CITY AGREE THAT IN THE EVENT OF A DEFAULT OR TERMINATION BY DEVELOPER UNDER THIS AGREEMENT, IT WOULD BE REASONABLE AT SUCH TIME TO AWARD THE CITY, AS THE CITY'S SOLE AND EXCLUSIVE REMEDY, "LIQUIDATED DAMAGES" EQUAL TO THE AMOUNT REPRESENTED BY THE CITY ADVANCE. SUCH LIQUIDATED DAMAGES SHALL BE THE CITY'S SOLE AND EXCLUSIVE REMEDY FOR DEVELOPER'S EVENT OF DEFAULT OR ELECTION TO TERMINATE AND DEVELOPER SHALL HAVE NO OTHER OR FURTHER OBLIGATION OR LIABILITY TO THE CITY ON ACCOUNT OF SUCH DEFAULT OR BREACH (EXCEPT FOR INDEMNITY OBLIGATIONS WHICH SURVIVE TERMINATION OF THIS AGREEMENT AND PAYMENT OF ESCROW TERMINATION CHARGES). THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE CITY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

INITIALS: CITY _____ DEVELOPER _____

7.2.2. Developer Remedies for City Event of Default

If an Event of Default by City occurs, Developer shall have the right to (a) terminate this Agreement by delivering written notice thereof to the City, in which case the City Advance shall be returned to Developer, and City shall pay all escrow termination charges, in which event this Agreement shall be terminated, or (b) seek specific performance of this Agreement.

7.2.3. Developer's Right to Terminate Prior to the Closing.

At any time prior to the Closing, Developer shall have the right to terminate this Agreement by delivering written notice thereof to the City, in which case (a) the

City Advance shall be retained by the City as liquidated damages, and (b) Developer shall pay all escrow termination charges, in which event this Agreement shall be terminated.

7.2.4. Automatic Termination upon Outside Closing Date

Subject to Events of Force Majeure, this Agreement shall automatically terminate upon the Outside Closing Date in the event the Closing has not occurred by the Outside Closing Date, in which case (a) the City Advance shall be retained by the City as liquidated damages unless Closing has not occurred due to an Event of Default by the City, and (b) Developer shall pay all escrow termination charges, in which event this Agreement shall be terminated.

7.3. Survival of Terms After Termination; Several Obligations After Closing

Following any termination, neither the City nor Developer shall have any further rights against or liability to the other under this Agreement. Developer's indemnification obligations under this Agreement shall remain in force following such termination with respect to any events occurring or claims accruing prior to the date of such termination.

7.4. Limitation on Liability

Neither Developer nor the City shall in any event be entitled to, and each hereby waives, any right to seek loss of profits, or any special, incidental or consequential damages of any kind or nature, however caused, from the other Party arising out of or in connection with this Agreement, even if the other Party has been advised of the possibility of the damages, and in connection with such waiver each Party is familiar with and hereby waives the provision of §1542 of the California Civil Code which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

7.5. Legal Actions

7.5.1. Institution of Legal Actions

Any legal actions hereunder may be instituted in the Superior Court of the County of Santa Clara, State of California, or in the Federal District Court in the Northern District of California.

7.5.2. Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

7.5.3. Acceptance of Service of Process

In the event that any legal action is commenced by Developer against the City, service of process on the City shall be made by personal service upon the City Representative, or in such other manner as may be provided by law.

In the event that any legal action is commenced by the City against Developer, service of process on Developer shall be made by personal service upon Developer (or upon a general partner, managing member or officer of Developer), or in such other manner as may be provided by law.

7.6. Rights and Remedies are Cumulative

To the extent permitted by law and except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same Event of Default or any other Event of Default by the other party.

7.7. Inaction Not a Waiver of Default

Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

7.8. Termination of this Agreement

Except for indemnification obligations of Developer hereunder, this Agreement shall terminate as of the Closing.

7.9. Attorneys' Fees

In any action between the Parties to interpret, enforce, reform, modify, rescind or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing Party in the action or other proceeding shall be entitled, in addition to damages, injunctive relief or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs, expert witness fees and reasonable attorneys' fees.

As used herein, the terms "attorneys' fees" or "attorneys' fees and costs" means the fees and expenses of counsel to the parties hereto (including, without limitation, in-house or other counsel employed by the City or Developer) which may include printing, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and others not admitted to the bar but performing services under the supervision of an attorney and fees and costs for expert witnesses. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred.

8. GENERAL PROVISIONS

8.1. Notices, Demands and Communications Between the Parties

All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Agreement shall be in writing ("**Notice**") and shall be given by personal delivery, certified mail, return receipt requested, or overnight guaranteed delivery service and addressed as follows, or at any other address as that party may later designate by Notice:

To the City: City Manager's Office
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Manager

Copy to: City Attorney's Office
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Attorney

Copy to: Carle, Mackie, Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401
Attention: Henry Loh II

To Developer: Freebird Development Company, LLC
1111 Broadway, Suite 300
Oakland, CA 94607
Attention: Robin Zimbler

Copy to: Gubb and Barshay LLP
505 14th Street, Suite 450
Oakland, CA 94612
Attention: Evan A. Gross

Any Notice shall be deemed received immediately if delivered by hand, shall be deemed received on the third day from the date it is postmarked if delivered by certified mail, and shall be deemed received on the date of delivery if sent via overnight courier. Notices sent by a party's attorney on behalf of such party shall be deemed delivered by such party.

8.2. Conflicts of Interest

No member, official or employee of the City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.

8.3. Warranty Against Payment of Consideration for Agreement

Developer warrants that it has not paid or given and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as project managers, architects, engineers, attorneys, and public relations consultants.

8.4. Nonliability of the City Officials and Employees

No member, official, employee, representative or agent of the City shall be personally liable to Developer, or any successor in interest thereof, in the event of any default or breach by the City under the terms of this Agreement.

8.5. Non-liability of Officers and Employees of Developer.

No non-managing member, limited partner, shareholder, officer, director, or employee of Developer shall be personally liable to City, or any successor in interest thereof, in the event of any default or breach by Developer under the terms of this Agreement.

8.6. Approvals by the City and Developer

Approvals required of the parties shall be given within the time set forth in this Agreement, the Schedule of Performance or, if no time is given, within a reasonable time. Wherever this Agreement requires the City or Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld, conditioned or delayed, unless expressly provided to the contrary.

8.7. Force Majeure

In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays or defaults due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God or any other deity; acts or threats of the public enemy or terrorists; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation, arbitration, administrative proceedings, initiatives and/or referenda, including challenges to the validity of this transaction or the Entitlements, or any element thereof, or any portion thereof; unusually severe weather; inability to secure necessary materials or tools; acts or failure to act of the City or any other public or governmental agency or entity (other than that acts or failure to act of the City shall not excuse performance by the City); an Economic Event, as defined and subject to the provisions stated below; or any other causes beyond the reasonable control or without the fault of the Party claiming an extension of time to perform or relief from default (each of the foregoing an "**Event of Force Majeure**" and collectively "**Events of Force Majeure**").

An "**Economic Event**" shall mean (a) a year-over-year decrease of 10% or more of average asking rent in Santa Clara County; (b) a year-over-year increase of 20% or more on construction costs in Santa Clara County; or (c) the difference of (I) the quotient of net operating income and total projects costs, minus (II) capitalization rates, is less than 0.5% with respect to the Project. Notwithstanding the first paragraph of this Section 8.7, (A) upon the occurrence of any Economic Event, the extension shall be for 12 months and (B) only one Economic Event

shall cause an extension as an Event of Force Majeure, and any later Economic Events shall not cause any extension hereunder.

The lack of funding to complete the development of the Project shall not constitute an Event of Force Majeure pursuant to this Section 8.7. Except for one Economic Event as provided in this Section 8.7, Developer expressly assumes the risk of real estate market conditions, construction costs, interest rates, and other similar general economic circumstances that may make funding and/or construction of the Project difficult, more expensive, or infeasible, whether or not such events or causes are foreseeable as of the date of this Agreement. Developer acknowledges and agrees that the provisions of this Section 8.7 shall not operate to excuse Developer from prompt payment when due under the City Loan Documents or the Seller Loan Documents.

An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) calendar days after it obtains actual knowledge of the event. Times of performance under this Agreement may also be extended in writing by mutual agreement between the City and Developer.

8.8. Interpretation

This Agreement shall be construed as a whole and in accordance with its fair meaning and as though both of the parties participated equally in its drafting. Captions and organizations are for convenience only and shall not be used in construing meaning.

8.9. Administration

This Agreement shall be administered by the City Representative following execution of this Agreement by the City. Whenever a reference is made in this Agreement to an action, finding or approval to be undertaken by the City, the City Representative or his or her designee are authorized to act on behalf of the City unless specifically provided otherwise or the context should require otherwise. The City Representative or his or her designee shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement and to negotiate and finalize all agreements and documents referred to herein on behalf of the City, so long as such actions do not substantially change the uses or development permitted on the Project, or add to the costs of the City as specified herein or as agreed to by the City Council or other authorized body. Notwithstanding the foregoing, the City Representative or his or her designee may in their sole and absolute discretion refer any matter to the City Council of the City and/or other authorized body for action, direction or approval.

8.10. Mutual Cooperation

Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement.

8.11. Independent Contractor

The parties agree that Developer, in the performance of this Agreement, is not and shall not act in the capacity of an agent, employee or partner of the City.

8.12. Time

Time is of the essence in the performance of this Agreement.

8.13. Third-Party Beneficiaries

This Agreement is made and entered into for the sole protection and benefit of the City, its successors and assigns, and Developer, its permitted successors and assigns, and no other person or persons shall have any right of action hereunder.

8.14. Restated Agreement

This Agreement amends and restated in its entirety the Original Agreement.

9. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement constitutes the entire understanding and agreement of the Parties. Two (2) duplicate originals of this Agreement shall be executed, each of which shall be deemed to be an original. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

Except as otherwise provided herein, this Agreement contains all of the understandings of the parties relating to the transactions contemplated by this Agreement, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and Developer. Notwithstanding the previous sentence, the parties agree that the City Representative, on behalf of the City, shall be entitled to extend the dates in the Schedule of Performance without the need for amending the Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the City and Developer have signed this Agreement as of the date and year first above written.

"**CITY**"

CITY OF SANTA CLARA,
a California municipal corporation

By: _____
Deanna J. Santana, City Manager

APPROVED AS TO FORM:

_____
Brian Doyle, City Attorney

[SIGNATURE PAGE TO AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT]

[PAGE 1 OF 2]

"**DEVELOPER**"

FREEBIRD DEVELOPMENT COMPANY, LLC, a California limited liability company

By: _____
Robin Zimbler, Manager

[SIGNATURE PAGE TO AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT]

[PAGE 2 OF 2]

ATTACHMENT A

LEGAL DESCRIPTION OF CITY PROPERTY

Real property in the City of Santa Clara, County of Santa Clara, State of California, being a portion of Parcel 3 described in the Deed to the County of Santa Clara, recorded February 2, 1962, in Book 5453 of Official Records, Page 669, Santa Clara County Records, described as follows:

Beginning at the most Northerly corner of Lot 30 as shown on that certain Map of Tract 2896 filed for record on May 11, 1961 in Book 132 of Maps, Pages 38 and 39, Santa Clara County Records.

Thence along the Northeasterly line of said Parcel 3, North 26° 09' 22" East, 14.01 feet; thence North 64° 01' 08" West, 147.59 feet; thence North 73° 07' 44" West, 63.92 feet; thence along a tangent curve to the left, having a radius of 60.00 feet; through a central angle of 62° 52' 15" for an arc length of 65.84 feet; thence South 44° 00' 01" West, 274.40 feet;

Thence along a tangent curve to the left, having a radius of 962.00 feet, through a central angle of 16° 07' 44" for an arc length of 270.81 feet, to the Northwesterly line of Lot 19 as shown on that certain Map of Tract 2992 filed for record on June 21, 1961, in Book 134 of Maps, Pages 26 and 27, Santa Clara County Records;

Thence along the Northwesterly and Northerly lines of Lots 19 through 25 of said Map of Tract 2992 and along the Northwesterly line of Lots 27 through 30 of said Map of Tract 2896, the following five courses:

1. Thence along a non-tangent curve to the right, having a radius of 1200.00 feet, whose center bears South 59° 19' 45" East through a central angle of 0° 10' 12" for an arc length of 3.56 feet;

2. Thence along a compound curve to the right, having a radius of 150.00 feet, through a central angle of 53° 58' 00" for an arc length of 141.28 feet;

3. Thence North 84° 48' 27" East, 213.98 feet;

4. Thence along a tangent curve to the left, having a radius of 225.00 feet, through central angle of 49° 33' 01" for an arc length of 194.58 feet;

5. Thence North 35° 15' 26" East, 197.75 feet, to a point of beginning.

APN: 224-37-068

ATTACHMENT B

SCHEDULE OF PERFORMANCE

Permit Application ..... July 31, 2021

Submit 4% CDLAC & TCAC applications ..... August 31, 2021

Outside Closing Date ..... April 30, 2022

Construction Start ..... [TBD]

Construction Completion ..... [TBD]

PIS ..... [TBD]

100% Occupied ..... [TBD]

8609 Certification ..... [TBD]

ATTACHMENT C

[RESERVED]

ATTACHMENT D

INSURANCE REQUIREMENTS

[attached]

ATTACHMENT E

FINANCING SUMMARY

ATTACHMENT F

PERMITTED EXCEPTIONS

1. Taxes and assessments, general and special, are currently not assessed because of a statutory exemption. Should the statutory exemption change, taxes may be levied against the land.
2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.
3. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

   Granted To : City of Santa Clara, a municipal corporation
   For : sanitary sewer purposes
   Recorded : June 26, 1961 in Book 5210 of Official Records, Page 674 under Recorder's Serial Number 2018642
   Affects : as described therein

4. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following Granted To : City of Santa Clara, a municipal corporation

   For : storm drainage purposes
   Recorded : June 26, 1961 in Book 5210 of Official Records, Page 677 under Recorder's Serial Number 2018643
   Affects : as described therein

5. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

   Granted To : City of Santa Clara, a municipal corporation
   For : storm drain purposes
   Recorded : September 14, 1961 in Book 5296 of Official Records, Page 608 under Recorder's Serial Number 2060294
   Affects : as described therein

6. Release and relinquishment of abutter’s or access rights to and from San Tomas Expressway, upon which premises abuts, as follows:

   Instrument : Grant Deed Individual
   To : County of Santa Clara
   Recorded : February 2, 1962 in Book 5453 of Official Records, Page 669 under Recorder's Serial Number 2135068

7. Terms and provisions as contained in an instrument,

Entitled : Assignment and Assumption Agreement (Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects)
Executed By : City of Santa Clara, City of Santa Clara Housing Authority and Redevelopment Agency of the City of Santa Clara
Recorded : June 23, 2011 in Official Records under Recorder's Serial Number 21216118

8. Terms and provisions as contained in an instrument,

Entitled : Grant Deed
Executed By : Redevelopment Agency of the City of Santa Clara and City of Santa Clara Housing Authority
Recorded : June 23, 2011 in Official Records under Recorder's Serial Number 21216119

ATTACHMENT G

GROUND LEASE

[attached]

ATTACHMENT H

MEMORANDUM OF GROUND LEASE

[Attached to Ground Lease]

ATTACHMENT I

CITY LOAN AGREEMENT

[attached]

ATTACHMENT J-1

CITY PROMISSORY NOTE

[attached]

ATTACHMENT J-2

SELLER PROMISSORY NOTE

[attached]

ATTACHMENT K-1

CITY DEED OF TRUST

[attached]

ATTACHMENT K-2

SELLER DEED OF TRUST

[attached]

ATTACHMENT L-1

CITY ASSIGNMENT OF RENTS AND LEASES

[attached]

ATTACHMENT L-2

SELLER ASSIGNMENT OF RENTS AND LEASES

[attached]

ATTACHMENT M

CITY ASSIGNMENT OF AGREEMENTS

[attached]

ATTACHMENT N

PROVISIONS FOR DISBURSEMENT AGREEMENT

1. Compliance With Previous Conditions. The conditions precedent set forth in Section 3.7.1 of this Agreement shall have been met on the date of the closing of the City Loan and shall continue to be met as of the disbursement date.

2. Evidence of Expenditure. Developer has submitted to the City a draw request including invoices, receipts, cancelled checks or other written documentation satisfactory to the City Representative evidencing Developer's incurrence of Eligible Project Costs, and such draw request has been approved in accordance with the Disbursement Agreement.

3. Approvals under City Loan Documents. Developer has obtained from the City all approvals for the development of the Project that are required to be obtained at the time of the disbursement request under the City Loan Documents.

4. No Default. There shall be no condition, event or act which would constitute an Event of Default by Developer under the City Loan Documents, the County Loan, the Construction Loan, or any other financing or contract applicable to the Project or which upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

5. Representations and Warranties. All representations and warranties of Developer set forth in Section 2.2 of this Agreement shall be true and correct in all material respects as if made on and as of the date of the disbursement.

6. No Stop Notice. No stop notice (whether bonded or not) shall have been served upon or otherwise delivered to Developer, Construction Lender or the City in connection with the construction of the Project or otherwise in connection with the City Loan, unless Developer shall have (or shall be with the proceeds of the requested disbursement) (a) paid and discharged the same, or (b) effected the release thereof by delivering to the Construction Lender a surety bond complying with the requirements of applicable Governmental Regulations for such release.

7. No Liens. No claim of lien, notice and claim of mechanic's lien or other similar document or instrument shall have been recorded against the Project or any portion thereof, unless Developer shall have (or shall with the proceeds of the requested disbursement) (a) paid and discharged the same, (b) effected the release thereof by delivering to the Construction Lender a surety bond complying with the requirements of applicable Governmental Regulations for such release, or by insurance over the same, or (c) caused the Title Company to commit in writing to issue a policy of title insurance showing such lien not to be an exception to title.

8. Satisfactory Progress. The Construction Lender shall be reasonably satisfied, based on its own inspections and/or other reliable information, that the Project is progressing satisfactorily and in conformance with this Agreement, all applicable

Governmental Regulations and all other requirements, including, without limitation, applicable wage requirements.

9. Governmental Regulations; Wages. There shall be no condition, event or act existing in connection with the Project which constitutes, or would, with the passage of time, constitute a material violation of any applicable Governmental Regulation, including, without limitation, applicable wage requirements.

ATTACHMENT O

[RESERVED]

ATTACHMENT P

CITY REGULATORY AGREEMENT

[attached]

ATTACHMENT Q

GRANT DEED

[attached]

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO
AND MAIL TAX STATEMENTS TO:
[Tax Credit Partnership]
c/o Freebird Development Company, LLC
1111 Broadway, Suite 300
Oakland, CA 94607
Attention: Robin Zimbler

Space above this line for Recorder's use

GRANT DEED
(Improvements)

THE UNDERSIGNED GRANTOR DECLARES:
DOCUMENTARY TRANSFER TAX $_____; CITY TRANSFER TAX $_____;
___ computed on full value of the property conveyed, or
___ computed on full value less value of liens or encumbrances remaining at time of sale, or
___ transfer is exempt from tax for the following reason: _____
in the City of Santa Clara, California.

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of Santa Clara, a California municipal corporation (the "**Grantor**") hereby grants and conveys to [Tax Credit Partnership], a California limited partnership (the "**Grantee**"), the real property (the "**Property**") located in the City of Santa Clara, County of Santa Clara, State of California more particularly described in Exhibit A attached to this Grant Deed.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____.

CITY OF SANTA CLARA,
a California municipal corporation

By: _____
Deanna J. Santana, City Manager

APPROVED AS TO FORM:

_____
Brian Doyle, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

[Seal]

Exhibit A to Grant Deed

LEGAL DESCRIPTION OF PROPERTY

[Improvements legal description]

ATTACHMENT R

[RESERVED]

ATTACHMENT S

CITY ENVIRONMENTAL INDEMNITY

[attached]

LOAN AGREEMENT

(Freebird)

by and between

THE CITY OF SANTA CLARA

and

MONROE STREET HOUSING PARTNERS, L.P.

LOAN AGREEMENT

THIS LOAN AGREEMENT (this "**Agreement**") is entered into by and between THE CITY OF SANTA CLARA ("**City**") and Monroe Street Housing Partners, L.P., a California limited partnership ("**Borrower**"), as of [_] 1, 2020. City and Borrower agree as follows:

PART 1. SUBJECT OF AGREEMENT

Section 1.1 Purpose of Agreement

a. Concurrently with the execution of this Agreement, City and Borrower have entered into that certain Ground Lease (the "**Lease**") pursuant to which City is leasing to Borrower an approximately 2.5 acre parcel (the "**Property**") described on Attachment No. 1 hereto for the construction and operation of 165 units of housing to be leased as follows: (a) 16 units to be leased to up to 30% AMI Households who qualify as persons with developmental disabilities; (b) 10 units to be leased to 50% AMI Households; (c) 13 units to be leased to 60% AMI Households; (d) 16 units to be leased to 80% AMI Households; (e) 9 units to be leased to 120% AMI Households; and (f) 1 unit as a manager's unit (the "**Management Unit**"). The foregoing units to be developed on the Property, excluding the Management Unit, are referred to herein as the "**Affordable Units**". Borrower's leasehold interest in the Property pursuant to the Lease and fee interest in the improvements to be constructed on the Property (including the Affordable Units and the Management Unit), together with the development thereof in accordance with this Agreement, is referred to herein as the "**Project**".

b. City is concurrently herewith making a loan to Borrower in the original principal amount of Six Million Five Hundred Thousand Dollars ($6,500,000) (the "**City Loan**") to provide financial assistance for the development of the Project. The City Loan is evidenced by that certain Promissory Note of even date herewith made by Borrower in favor of City (the "**City Note**") and secured by that certain Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents), in which Borrower is the Trustor, Old Republic Title Company is the Trustee, and City is the Beneficiary, dated as of the date hereof (the "**City Deed of Trust**") and encumbering the Project.

c. City and Borrower have agreed to enter into this Agreement to memorialize their understanding regarding their respective rights and obligations in respect of the City Loan and the construction and operation of the Project.

Section 1.2 Definitions

For purposes of this Agreement, the following capitalized terms shall have the following meanings:

"**30% AMI Household(s)**" means a household whose aggregate gross income equals 30% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**50% AMI Household(s)**" means a household whose aggregate gross income equals 50% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**60% AMI Household(s)**" means a household whose aggregate gross income equals 60% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**80% AMI Household(s)**" means a household whose aggregate gross income equals 80% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**120% AMI Household(s)**" means a household whose aggregate gross income equals 120% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**Affiliate**" shall mean (1) any Person directly or indirectly controlling, controlled by or under common control with another Person; (2) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, any company for which such Person acts in any such capacity. The term "control" as used in the immediately preceding sentence, shall mean the power to direct the management or the power to control election of the board of directors. It shall be a presumption that control with respect to a corporation or limited liability company is the right to exercise or control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity or association, control is the possession, indirectly or directly, of the power to direct or cause the direction of the management or policies of the controlled entity. For purposes of this definition, any general partner shall be considered an "Affiliate" of Borrower.

"**Affordable Rent**" means an amount of monthly rent, including a reasonable utility allowance, that does not exceed the maximum rent to be charged by Borrower and paid by the Qualified Tenant occupying the Affordable Units as determined pursuant to the TCAC Regulations. The tenant utility allowance, if any, shall be determined by the Santa Clara County Housing Authority. The calculation of Affordable Rent shall be performed annually.

"**AMI**" means the median family income figures and standards (adjusted for actual Household size) utilized by TCAC.

"**Business Day(s)**" means Monday through Friday, except for federal and state holidays.

"**Certificate of Occupancy**" shall mean a temporary certificate of occupancy issued by the City for the Project.

"**Change Order**" means any individual change order which results in a change made to, or any amendments of, the Construction Contract or the Plans and Specifications.

"**City**" shall mean the City of Santa Clara, California

"**City Assignment of Agreements**" shall mean the Assignment of Agreements between Borrower and City dated as of the date hereof.

"**City Assignment of Rents and Leases**" shall mean the Assignment of Rents and Leases between Borrower and City dated as of the date hereof.

"**City Deed of Trust**" shall mean the Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents), in which Borrower is the Trustor, Old Republic Title Company is The Trustee, and City is the Beneficiary, which secures the City Loan, dated as of the date hereof.

"**City Environmental Indemnity**" shall the Environmental Indemnity executed by Borrower for the benefit of the City, dated as of the date hereof.

"**City Indemnitees**" means City and its departments, divisions, agencies, elected officials, boards, officers, employees, representatives and agents.

"**City Loan**" shall mean the loan of from the City to Borrower, in the amount and pursuant to the terms and conditions described in this Agreement, secured by the City Deed of Trust and having a lien on the Property that is junior in priority to the lien of the Senior Loan Deed of Trust.

"**City Loan Documents**" shall mean this Agreement, the City Promissory Note, the City Deed of Trust, the City Assignment of Rents and Leases, the City Assignment of Agreements, the City Environmental Indemnity, the City Regulatory Agreement, any other agreement or document evidencing or securing the City Loan, and any amendments and modifications thereto.

"**City Note**" shall mean the Promissory Note, evidencing the City Loan, made by Borrower and payable to City, dated as of the date hereof.

"**City Regulatory Agreement**" means the Agreement Containing Covenants between City and Borrower made as of the date hereof and recorded against the Project.

"**Closing Requirements**" shall mean the requirements attached to this Agreement as Attachment No. 6 which are incorporated herein by this reference.

"**Completion**" shall mean the point in time when all of the following shall have occurred: (1) issuance of a Certificate of Occupancy by the City of Santa Clara; (2) recordation of a Notice of Completion by Borrower or its contractor; (3) certification by the project architect that construction of the Improvements as provided in the (with the exception of minor "punchlist" items) has been completed in a good and workmanlike manner and substantially in accordance with the Scope of Development; (4) payment, settlement or other extinguishment, discharge, release, waiver, bonding or insuring against any mechanic's liens that have been recorded or stop notices that have been delivered; and (5) the City shall have been issued a CLTA 101 endorsement (or an alternative endorsement reasonably acceptable to the City) to its policy of title insurance.

"**Construction Budget**" means the schedule of construction expenses actually and expected to be incurred by the Borrower in connection with the Project and reasonably approved by the City, as may be amended or modified pursuant to the City Loan Documents.

"**Construction Loan**" means the loan for the construction of the Project made to Borrower from [_] ("**Construction Lender**"), secured by the Construction Loan Deed of Trust.

"**Construction Loan Deed of Trust**" shall mean the leasehold deed of trust securing the Construction Loan that is first in priority.

"**Construction Loan Documents**" means any agreements and documents evidencing or securing the Construction Loan and includes all attachments, modifications and amendments thereto.

"**Construction Period**" shall mean the period of time commencing upon the date hereof and ending upon the Conversion.

"**Conversion**" shall mean the point in time that both (a) either (i) all of the conditions precedent to the funding of the Permanent Loan have been satisfied and the Construction Loan has been repaid in full, as evidenced by the recording against the leasehold of the Property of a reconveyance of the Construction Loan Deed of Trust or (ii) the Construction Loan is converted to the Permanent Loan pursuant to the terms of the Construction Loan Documents and the Permanent Loan Documents, and (b) the Conversion Requirements set forth on Attachment No. 7 are satisfied.

"**Conversion Requirements**" shall mean the requirements attached to this Agreement as Attachment No. 7 which are incorporated herein by this reference.

"**County**" means Santa Clara County.

"**County Loan**" means that certain loan from County to Borrower in the amount of $3,200,000.

"**County Loan Deed of Trust**" shall mean the leasehold deed of trust securing the County Loan that is second in priority.

"**County Loan Documents**" means any agreements and documents evidencing or securing the County Loan and includes all attachments, modifications and amendments thereto.

"**Developer Fee**" means the developer fee to [_], as "Developer", in an amount not to exceed $[_], with the maximum cash portion of the Developer Fee equal to or less than $[_] to be paid as follows: (a) $[_] at [_], (b) $[_] at [_],(c) $[_] at [_], and (d) $[_] at [_],. Any portion in excess of the $[_] cash portion shall constitute "**Deferred Developer Fee**" under the Partnership Agreement and shall be payable from the Borrower's remaining share of Residual Receipts (as defined in the City Note).

"**Development Costs**" shall mean the total cost of developing and constructing the Improvements on the Property, as set forth in the Project Budget.

"**Draw Request**" means a request for disbursement of Construction Loan funds.

"**Eligible Project Costs**" means all costs and expenses permitted and approved pursuant to this Agreement as set forth in the Construction Budget which are customarily incurred and shall have been actually incurred by Borrower for the development and construction of the Project and shall include, without limitation, the following: construction costs; a Developer Fee in an amount not to exceed that permitted by the TCAC Regulations; property taxes and assessments; security services; utilities fees; insurance; and such other costs, fees and expenses, as agreed to in writing by the City; provided, however, that payment to parties related to Borrower for Eligible Project Costs must not exceed reasonable and customary market rates.

"**Environmental Laws**" shall have the meaning set forth in the Environmental Indemnity.

"**Force Majeure**" or "**Force Majeure Event**" shall mean the following events, provided that they actually delay and interfere with the timely performance of the matter to which it would apply and despite the exercise of diligence and good business practices are or would be beyond the reasonable control of the party claiming such interference: war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; acts of terrorism; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation, arbitration, administrative proceedings, initiatives and/or referenda, including challenges to the validity of this transaction or the approvals for the Project, or any element thereof, or any portion thereof; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor, or suppliers; acts of the other party; acts or failure to act of any Governmental Authority (except acts or failure to act of the City shall not excuse performance by the City); the imposition of any applicable moratorium by a Governmental Authority; or any other causes which despite the exercise of diligence and good business practices are or would be beyond the reasonable control of the party claiming such delay and interference. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Event unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within thirty (30) days after it obtains actual knowledge of the event.

"**Force Majeure Delay**" shall mean any delay in taking any action required by this Agreement, proximately caused by the occurrence of any Force Majeure Event.

"**Governmental Approvals**" shall mean and include any and all general plan amendments, zoning approvals or changes, required approvals and certifications under the California Environmental Quality Act, tentative and final tract maps, variances, conditional use permits, demolition permits, excavation/foundation permits, grading permits, building permits, inspection reports and approvals, certificates of occupancy, and other approvals, permits, certificates, authorizations, consents, orders, entitlements, filings or registrations, and actions of any nature whatsoever required from any Governmental Authority in order to commence and complete the construction of the Project.

"**Governmental Authority**" means the United States, the State of California, the County of Santa Clara, the City of Santa Clara or any other political subdivision in which the Property is located, and any court or political subdivision, City or instrumentality having jurisdiction over the Property.

"**Governmental Regulations**" means any local, state, and federal laws, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, Environmental Laws, labor relations, prevailing wage, notification of sale to employees, Hazardous Materials, occupational health and safety, water, earthquake hazard reduction and building and fire codes; and including the National Environmental Policy Act (NEPA) and all Environmental Laws) bearing on the demolition, alteration, replacement, repair, refurbishing, improvement, construction, maintenance, management, use, or operation of the Affordable Project.

"**Hazardous Substances**" shall have the meaning set forth in the Environmental Indemnity.

"**Household**" means one or more persons occupying an Affordable Unit.

"**Improvements**" means and includes any buildings, structures, fixtures, foundations, excavation, parking, landscaping, or underground installations to be constructed on, under, or over the Property pursuant to the Scope of Development and in accordance herewith, including, without limitation, the Affordable Units and the Management Unit.

"**Investor Limited Partner**" shall mean [_], or any other Person who will be an investor limited partner in Borrower's limited partnership and who will purchase the Low Income Housing Tax Credits and own a 99.99% interest in the Borrower.

"**Lease**" shall mean the Ground Lease for the Property between the City, as lessor, and Borrower, as lessee, dated as of the date hereof.

"**Legal Description**" shall mean the legal description of the Property attached to this Agreement as Attachment No. 1, which is incorporated herein by this reference.

"**Limited Partnership**" shall mean the single purpose entity referred to herein as "Borrower", formed for the ownership, development and operation of the Project.

"**Limited Partnership Agreement**" shall mean the agreement governing the Limited Partnership and shall include the Limited Partnership Agreement as amended and restated on the admission of the Investor Limited Partner.

"**Low Income Housing Tax Credits**" shall mean tax credits authorized by the Tax Reform Act of 1986 and governed by Section 42 of the Internal Revenue Code.

"**Management Agreement**" means a written agreement between the Borrower and the Property Manager as described in Section 5.3.

"**Management Plan**" means the plan for the management and operation of the Project.

"**Management Unit(s)**" is defined in Section 1.1(a).

"**Memorandum of Lease**" shall mean the memorandum evidencing the Lease, between the City, as lessor, and Borrower, as lessee, dated as of the date hereof, and to be recorded in the Official Records.

"**Operating Budget**" means the operating budget for the Project prepared in accordance with the City Regulatory Agreement.

"**Permanent Loan**" shall mean any permanent loan, in an aggregate amount not to exceed the Construction Loan except as reasonably approved by the City, for the Project to be made to Borrower by the Construction Lender or other lender in accordance with the terms and conditions of the Lease ("**Permanent Lender**") and the Project Pro Forma following Conversion, secured by the Permanent Loan Deed of Trust.

"**Permanent Loan Deed of Trust**" shall mean the leasehold deed of trust securing the Permanent Loan that is first in priority.

"**Permanent Period**" shall mean the period of time from and after Conversion.

"**Permanent Pro Forma**" means a revised Project Pro Forma as of the date of the Conversion.

"**Permitted Transfer**" means any of the following:

a. An assignment of this Agreement and all of Borrower's interests in the Property to an Affiliate;

b. A conveyance of a security interest in the Property or any portion thereof or interest therein or interest in the Borrower in connection with any Senior Loan and any transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection therewith;

c. The inclusion of equity participation in the Borrower by addition of limited partners to Borrower's partnership or similar mechanism, and any transfers of limited partnership interests in Borrower's partnership;

d. The lease for occupancy of all or any part of the Improvements on the Property;

e. The granting of easements or permits to facilitate the development of the Property in accordance with this Agreement;

f. The withdrawal, removal and/or replacement of a general partner of Borrower pursuant to the terms of the Borrower's partnership agreement, provided that any required substitute general partner is reasonably acceptable to City and is selected with reasonable promptness. The Investor Limited Partner or an Affiliate thereof is an acceptable successor general partner of Borrower;

g. the assignment or replacement of the original managing general partner in the Borrower with a nonprofit public benefit corporation or Affiliate thereof, provided that any new general partner is reasonably acceptable to City;

h. The sale, transfer or pledge of any limited partnership interest in Borrower or of any partnership interest in the Investor Limited Partner; and

i. A Refinancing Loan in accordance with Section 2.23.3 of the Lease.

"**Person**" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or foreign.

"**Plans and Specifications**" means any and all plans, drawings, studies, reports and related documents concerning the construction of the Project submitted by Borrower to City, and approved by City, including, without limitation, all architectural and engineering plans, and all approved amendments, modifications, supplements, general conditions and addenda thereto.

"**Project Budget**" shall mean the schedule of sources and uses attached to this Agreement as Attachment No. 5.

"**Project Pro Forma**" means the financial information to be prepared by Borrower, and any updates and amendments thereto, including without limitation, the Construction Budget, estimated sources and uses of financing, and the Project's operating budget and reasonably approved by the City.

"**Property**" means the real property described in Section 1.1(a) hereof.

"**Property Manager**" means The John Stewart Company, or another property manager engaged by Borrower to manage the Project and reasonably approved by the City.

"**Qualified Tenant(s)**" means a Household who qualifies as a 30%, 50%, 60%, 80% and 120% AMI Household, as applicable.

"**Release of Construction Covenants**" shall mean the certificate to be issued by the City in accordance with Section 3.25 of this Agreement.

"**Rent Schedule**" means the schedule calculating the Affordable Rent for the Project.

"**Restricted Period**" shall mean the period beginning on the date of the Conversion and continuing until the date that is fifty-five (55) years after the Conversion.

"**Schedule of Performance**" shall mean the document attached to this Agreement as Attachment No. 2 which is incorporated herein by this reference.

"**Scope of Development**" shall mean the document attached to this Agreement as Attachment No. 3 which is incorporated herein by this reference.

"**Seller Loan**" means that certain loan from the City in the amount of $5,200,000.

"**Senior Lender**" shall mean the maker of any Senior Loan, any construction lender, credit enhancer or construction period guaranty facility, including but not limited to the Construction Lender and the Permanent Lender.

"**Senior Loan**" shall mean, during the Construction Period, the Construction Loan, and during the Permanent Period, the Permanent Loan and any loan in the Project Pro Forma with an actual principal amount in excess of the City Loan.

"**Senior Loan Documents**" shall mean, as applicable, the Construction Loan Deed of Trust, the Permanent Loan Deed of Trust, loan agreements, promissory notes, financing statements, guaranties, security agreements, assignments, and similar documents and instruments to be executed by Borrower in connection with the Senior Loans.

"**Social Services**" means the social services to be provided to residents of the Project, which shall include, at a minimum, adult education and either a health and wellness program or a skill building program.

"**Subordination Agreement**" means an agreement between each Senior Lender and the City in such form as is reasonably approved by the Senior Lender and the City that subordinates the City Loan and City Loan Documents (except for the City Regulatory Agreement) to the Senior Loan and Senior Loan Documents.

"**TCAC**" means the California Tax Credit Allocation Committee.

"**TCAC Regulations**" means the California Tax Credit Regulations Implementing the Federal and State Low Income Housing Tax Credit Laws, California Code of Regulations, Title 4, Division 17, Chapter 1.

"**Title Company**" means Old Republic Title Company.

Section 1.3 The Property

The Property is owned by County and leased to Borrower pursuant to the Lease, as described in the "Legal Description of the Property" (attached hereto as Attachment No. 1).

Section 1.4 City

City is a California municipal corporation existing under the laws of the State of California. The address of the City for purposes of receiving notices pursuant to this Agreement shall be:

To the City: Housing & Community Services Division
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: Division Manager

Copy to: City Attorney's Office
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Attorney

Copy to: Carle, Mackie, Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401
Attention: Henry Loh II

"City" as used in this Agreement includes the any assignee or successor to the rights, powers and responsibilities of City hereunder.

Section 1.5 Borrower

Borrower is Monroe Street Housing Partners, L.P., a California limited partnership, whose administrative general partner is Freebird Development Company, LLC, a California limited liability company, and whose managing general partner is Housing Choices Coalition For Persons With Developmental Disabilities, Inc., a California nonprofit public benefit corporation. The address of Borrower for purposes of receiving notices pursuant to this Agreement is as follows:

Monroe Street Housing Partners, L.P.
c/o Freebird Development Company, LLC
1111 Broadway, Suite 300
Oakland, CA 94607
Attention: Robin Zimbler

With a copy to:

Monroe Street Housing Partners, L.P.
c/o Housing Choices Coalition For Persons With Developmental Disabilities, Inc.
6203 San Ignacio Ave, Suite 108
San Jose CA 95119
Attention: President

With a copy to:

Gubb and Barshay LLP
505 14th Street, Suite 450
Oakland, CA 94612
Attn: Evan A. Gross

With a copy to:

[LP]

Whenever the term "Borrower" is used herein, such term shall mean and include: (1) the Borrower as of the date hereof; and (2) any assignee of or successor to its rights, powers and responsibilities approved by the City or permitted by this Agreement.

Section 1.6 Assignments and Transfers

The qualifications and identity of the Borrower are of particular concern to the City. It is because of those qualifications and identity that the City has entered into this Agreement with the Borrower. No voluntary or involuntary successor in interest of the Borrower shall acquire any rights or powers under this Agreement except as expressly set forth herein.

Except for Permitted Transfers, the Borrower shall not assign all or any part of this Agreement without the prior written approval of the City. The City agrees to reasonably give such approval if in the reasonable determination of the City, the proposed assignee is comparable in all material respects (including experience, character and financial capability) to the Borrower. Any such change (or assignment of this Agreement in connection therewith) shall be by instruments satisfactory to the City, and be subject to the approval by the City of evidence of the proposed assignee's qualifications to meet the obligations of the Borrower under this Agreement.

For the reasons cited above, the Borrower represents and agrees for itself and any successor in interest that, except for Permitted Transfers, without the prior written approval of the City, which shall not be unreasonably withheld, there shall be no cumulative change in ownership interest of any general partner of greater than 49%, or with respect to the identity of the parties in control of the Borrower or the degree thereof, by any method or means.

The Borrower shall promptly notify the City of any and all changes whatsoever in the identity of the parties in control of the Borrower or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information.

The Borrower shall not, except for Permitted Transfers, assign or attempt to assign this Agreement or any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, or any interest in Borrower (referred to hereinafter as a "**Transfer**"), without prior written approval of the City, except as expressly permitted by this Agreement and the other City Loan Documents. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by the City, to fulfill the obligations undertaken in this Agreement by the Borrower. Any such proposed transferee, by instrument in writing satisfactory to the City and in a form recordable among the land records, for itself and its successors and assigns, and for the benefit of the City shall expressly assume all of the obligations of the Borrower under this Agreement and agree to be subject to all conditions and restrictions applicable to the Borrower in this Agreement. There shall be submitted to the City for review all instruments and other legal documents proposed to affect any such transfer; and if approved by the City its approval shall be indicated to the Borrower in writing.

In the absence of specific written agreement by the City, no unauthorized Transfer, or approval thereof by the City, shall be deemed to relieve the Borrower or any other party from any obligations under this Agreement.

Notwithstanding this Section 1.6, Borrower shall have the right to make Permitted Transfers and execute deeds of trust and other instruments granting a security interest in the Property for the purposes of financing the Development Costs.

PART 2. CITY LOAN

Section 2.1 City Loan

City agrees to lend to the Borrower, and Borrower agrees to borrow from City, the City Loan. Concurrently with the execution of this Agreement, City and Borrower have executed and delivered the City Loan Documents.

Section 2.2 Disbursement

Upon satisfaction of the Closing Requirements, the City Loan shall be disbursed to Borrower in accordance with this Agreement.

City shall have no obligation to disburse the City Loan proceeds after Conversion. If any the City Loan proceeds remain undisbursed at Conversion, the amount of the City Loan will be reduced.

Section 2.3 Retention

Upon satisfaction of City's conditions precedent to funding, City will disburse ninety percent (90%) of hard costs for balances expended, less prior disbursements and one hundred percent (100%) of soft costs for balances expended, less prior disbursements. The remaining amount shall be retained ("retention") and such retention will be disbursed upon Completion.

Section 2.4 Subordination

City agrees that the City Loan and City Loan Documents (except the City Regulatory Agreement) shall be subordinate to the lien of each Senior Loan. City agrees to make such modifications to this Agreement, and to execute such estoppel certificates, as may reasonably be requested by a Senior Lender and the Investor Limited Partner, provided that such modifications or certificates are consistent with the purpose of this Agreement and do not materially adversely affect the receipt of any material benefit by City hereunder. The City shall execute such Subordination Agreements as may reasonably be requested by any Senior Lender.

Section 2.5 Construction Loan

The Construction Loan is secured by Borrower's interest in the Project and the Improvements located thereon. In no event may the Construction Loan be cross-defaulted with any loan secured by property other than the Project or assets attached to property other than the Project.

Section 2.6 Change Orders

Borrower covenants and agrees that concurrently with its submission of any Change Order to the Construction Lender, Borrower shall submit a copy of such Change Order to the City. Borrower shall not permit any Change Order without City's prior written consent if any such change (a) constitutes a material change in architectural or structural design, or the value or quality of the Improvements, or (b) would result in an increase or decrease in the cost of construction of the Improvements in excess of $[50,000] individually and in excess of $[150,000] in aggregate of change orders; provided, however, that if the City does not reasonably disapprove in writing within ten (10) Business Days of the written request for a Change Order and the County approves such Change Order, such Change Order shall be deemed approved by the City.

Section 2.7 Draw Requests

Concurrently with submission to any lender(s) of any draw request for funding of any construction costs relating to the Project (including all Draw Request submissions to the Construction Lender), Borrower shall submit such draw request and all supporting documentation customarily required with respect to such request to the City. The City shall be invited to attend all Draw Request meetings with respect to the Construction Loan.

The City's approval shall be required for any draw request with respect to the City Loan, and Borrower shall not proceed with any such draw request for City Loan proceeds until City's approval has been obtained; provided that, if the City fails to respond to such request for approval within ten (10) Business Days after the City's receipt of such request, provided that all required supporting documentation has been provided to the City, then such draw request shall be deemed to have been approved by the City. The City shall be permitted to withhold approval on future draw requests as a result of an uncured default in connection with a previously approved or disapproved draw request or any portion thereof.

If, commencing upon the date which is forty five (45) days after receipt of written notice of a default hereunder, unless (a) the City has agreed, in writing signed by the City Representative, on the amount of a holdback from such draw request necessary to address such default, or (b) Borrower has cured or commenced to cure such default to the reasonable satisfaction of the City Representative, Borrower agrees that it shall not submit further construction draw requests to any lender. The City agrees that, prior to the completion of construction, it shall provide Construction Lender with written notice of default hereunder concurrently with such notice being provided to City.

The foregoing provisions in this Section 2.7 relating to Draw Requests shall be suspended to the extent that the City, in its sole and absolute discretion, elects to rely on the County for approval of Draw Requests.

Section 2.8 No Prepayment of Junior Debt

Borrower covenants and agrees that, unless and until all principal and interest outstanding under the City Loan are paid in full, Borrower shall not make any prepayment of amounts due on any debt secured by a lien junior in position to the City Deed of Trust. The foregoing shall not

prohibit Borrower from making regularly scheduled payments of principal and interest on the any junior loan.

Section 2.9 No Pledging of City's Credit

Under no circumstances shall the Borrower have the authority or power to pledge the credit of the City or incur any obligation in the name of the City. Borrower shall save and hold harmless the City, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of the City's credit by the Borrower under this Agreement. Under no circumstances shall the City have the authority or power to pledge the credit of the Borrower or incur any obligation in the name of the Borrower. City shall save and hold harmless the Borrower, its partners and members for expenses arising out of any unauthorized pledges of the Borrower's credit by the City under this Agreement.

Section 2.10 Acknowledgement of City Contributions; Use of City Name or Logo

Borrower agrees, at its own cost and expense, to acknowledge the contributions of the City in information released to the public or interested parties regarding the Project, including but not limited to brochures and press releases. However, the Borrower shall not use the City's name or insignia in such information, or in any other publicity pertaining to the services rendered under this Agreement, in any magazine, trade paper, newspaper or other medium without first obtaining the express written consent of the City.

Section 2.11 Ground Breaking and Grand Openings

To insure proper protocol and recognition of the City staff and/or the City Council, Borrower shall cooperate with the City staff in the organization of any Project-related ground breaking, grand openings or any other such inaugural events/ceremonies sponsored by Borrower and celebrating the development which is the subject of this Agreement by providing the City staff with at least sixty (60) calendar days prior written notice of any such event.

PART 3. DEVELOPMENT OF THE PROPERTY

Section 3.1 Land Use Approvals; Land Use Restrictions

It is the responsibility of the Borrower, without cost to City, to ensure that zoning of the Property and all applicable City land use requirements will be such as to permit development of the Property and construction of the Improvements and the use, operation and maintenance of such Improvements in accordance with the provisions of this Agreement. Nothing contained herein shall be deemed to entitle Borrower to any City of Santa Clara permit or other City approval necessary for the development of the Property, or waive any applicable City requirements relating thereto. This Agreement does not (a) grant any land use entitlement to Borrower, (b) supersede, nullify or amend any condition which may be imposed by the City of Santa Clara in connection with approval of the development described herein, (c) guarantee to Borrower or any other party any profits from the development of the Property, or (d) amend any City laws, codes or rules. This is not a Development Agreement as provided in Government Code Section 65864. Without cost to City, City shall provide appropriate technical assistance to Borrower in connection with

Borrower's obtaining all necessary entitlements, permits and approvals for the construction of the Improvements.

Borrower shall construct the Project consistent with applicable Governmental Regulations, all applicable covenants, conditions and restrictions applicable to the Project, and all zoning, planning and design review requirements of the City and all permits and entitlements relating thereto.

Section 3.2 Permits and Entitlements

Prior to commencement of any work of improvement upon the Project, Borrower shall, at its own expense, secure or cause to be secured any and all permits, entitlements or approvals which may be required by the City in accordance with the Santa Clara City Code and land use entitlement process and by any other governmental entity with jurisdiction over the Project in accordance with applicable Governmental Regulations. The execution of this Agreement does not constitute the granting of or a commitment to obtain or grant any required land use entitlements or approvals required by the City.

Section 3.3 Condition of the Property

City makes no representation or warranty, express or implied regarding any conditions of the Property. It shall be the sole responsibility of the Borrower, at the City's expense, to investigate and determine all conditions of the Property and its suitability for the uses to which the Property is to be put in accordance with this Agreement. If the conditions of the Property are not in all respects entirely suitable for the use or uses to which the Property will be put, then it is the sole responsibility and obligation of the Borrower, without cost to City, to take such action as may be necessary to place the Property in all respects in a condition entirely suitable for its development and use in accordance with this Agreement.

Borrower agrees to perform and be solely responsible for the clean-up of any Hazardous Substances on, in, under or within the Property, at the sole cost, risk and expense of Borrower, except to the extent that City had previous knowledge about such Hazardous Substances and failed to disclose such information to Borrower prior to the closing of the City Loan. Borrower shall defend, indemnify and hold harmless the City and its officers, agents, employees, contractors and attorneys from any claims, liability, injury, damages, costs and expenses (including, without limiting the generality of the foregoing, the cost of any required clean up of Hazardous Substances, and the cost of attorneys' fees) which may be sustained as the result of the presence or clean up of Hazardous Substances on, in, or under the Property, except to the extent City had previous knowledge about such Hazardous Substances and failed to disclose such information to Borrower prior to the closing of the City Loan.

Section 3.4 Scope of Development; Modification of Closing Requirements

The Property shall be developed in accordance with and within the limitations established in the Scope of Development attached to this Agreement as Attachment No. 3 and the permits issued by the City for the Project. The Scope of Development shall not be materially modified or amended except with the prior written consent of the City. Borrower shall not materially modify

and shall construct, operate and maintain the Project in accordance with the Closing Requirements, or any matter approved by the City under the Closing Requirements, without the prior written approval of the City (or deemed approval pursuant to Section 2.6 hereof).

Section 3.5 Design; Architectural Quality

Borrower acknowledges and understands that the materials, workmanship, finish, design, components and general architectural quality of the Improvements to be constructed by Borrower under this Agreement will have a significant and continuing impact on the Project and the surrounding community and that the City's agreement to participate in assisting this Project is based upon Borrower's representation that the Project will be of high quality in design, construction and finish. Accordingly, Borrower understands and agrees that it will be required to develop the Project (i) by means of materials, workmanship and an overall design that will result in a residential development that is of high quality and of benefit to the Project and the community, and (ii) in accordance with applicable design guidelines. Borrower assumes all responsibility for the design and construction of, and shall let contracts for (or cause contracts to be let for), the construction of the Project. The City shall not be responsible to Borrower or to third parties in any way for any defects in the design of the Project, nor for any structural or other defects in any work done according to the approved design of the Project, nor for any delays reasonably caused by the review and approval processes established by this Section.

Section 3.6 Cost of Construction

The cost of planning, designing, developing and constructing the Project shall be borne solely by Borrower. Borrower will begin and complete all construction, development and other tasks specified therein within the times specified in the Schedule of Performance, subject to Force Majeure Delay. The Schedule of Performance may be subject to revision from time to time as mutually agreed on in writing between Borrower and the City.

Borrower has proposed, and City has approved, the Project Budget appended to this Agreement. Borrower acknowledges that City is relying on Borrower's experience and expertise in establishing the costs for the Project, and Borrower represents that the Project Budget is based on the best, good faith estimate of Borrower of the costs that are likely to be incurred for the Project.

Section 3.7 Schedule of Performance; Construction of Improvements

Borrower shall begin and complete all construction and development within the times specified in the Schedule of Performance, with such reasonable extensions of said times as may be granted by the City and subject to Force Majeure Delay. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing by Borrower and City. In the event that the sum of the proceeds of the City Loan available for disbursement together with any other sources to complete the construction of the Improvements are, or at any time become, in the reasonable judgment of the City, insufficient to pay all costs to achieve Completion in accordance with this Agreement, then Borrower will pay such costs.

Borrower shall prosecute to completion the construction of the Improvements as provided in Plans and Specifications and this Agreement. During periods of construction, Borrower shall submit to the City a written report of the progress of the construction when and as requested by the City. The report shall be in such form and detail as may be reasonably required by the City and shall include a reasonable number of construction photographs (if requested) taken since the last report by Borrower.

Section 3.8 Construction Contract

The City shall have the right, but not the obligation, to cure defaults under the Construction Contract and to assume Borrower's obligations and rights under the Construction Contract; provided that, such right to cure and assume the Construction Contract shall be subject to the rights, if any, of any Senior Lender with respect to such Construction Contract. Further, the Construction Contract shall set forth a reasonably detailed schedule for completion of each stage of construction.

The City approval of the Construction Contract shall not constitute a waiver by the City of any breach or violation of this Agreement that is a result of acts that are or purport to be in compliance with or in furtherance of said Construction Contract.

Section 3.9 Subcontracts

All contracts with subcontractors shall be entered into with duly licensed and insured subcontractors. City shall have the right to request copies of the contracts with subcontractors.

Section 3.10 Role of Architect

Borrower shall use commercially reasonable efforts to cause, and its written agreements with the architect for the Project shall require, that the architect supervise the construction of the Project, attend all draw meetings, and sign off on all Change Orders and construction draws with respect to the Project. Borrower shall provide the City with copies of all written agreements with the architect.

Section 3.11 [Intentionally deleted.]

Section 3.12 Prevailing Wages and Davis Bacon Act; Indemnity Regarding Labor Standards and Construction of Project

Borrower shall cause the construction of the Project and the payment of all wages in connection therewith to be in accordance with the provisions of California Labor Code §§ 1720 through 1861 (collectively, the "**Prevailing Wage Law**"), to the extent applicable to the Project.

To the fullest extent permitted by law, Borrower shall indemnify, defend and hold harmless the City Indemnitees from and against all liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs), where the same arise out of, are a consequence of, are in connection with, or are in any way attributable to, in whole or in part, to: (i) Borrower's or the contractor's failure to comply with all applicable laws, including all applicable federal and state labor standards, including, without limitation, the requirements of the Prevailing Wage Law and

the Davis Bacon Act, if applicable, (ii) defects in the design or construction of the Project, including (without limitation) the violation of any laws, and for defects in any work done according to the City approved plans, or (iii) any breach or failure to perform or act pursuant to this Agreement by Borrower, or by any individual or entity that Borrower shall engage in connection with the Project, including but not limited to officers, agents, employees or contractors of Borrower. Notwithstanding the foregoing, Borrower shall not be required to indemnify and hold harmless the City Indemnitees for liability attributable to the gross negligence or intentional misconduct of the City Indemnitees.

Section 3.13 Compliance with Law

Borrower shall comply with all Governmental Regulations in the construction, use and operation of the Project, including all applicable federal, state and local statutes, ordinances, regulations and laws, including without limitation, all applicable federal, state, and local labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the Santa Clara City Code, and all applicable disabled and handicapped access requirements, including without limitation (as currently exists or may be amended from time to time) the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq., Government Code § 4450, et seq., and Government Code § 11135, et seq.

Section 3.14 Nondiscrimination During Construction

Borrower certifies and agrees that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all contractors, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq., the Federal Equal Pay Act of 1963, 29 U.S.C. § 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, et seq., the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324b, et seq., 42 U.S.C. § 1981, the California Fair Employment and Housing Act, Government Code § 12900, et seq., the California Equal Pay Law, Labor Code § 1197.5, Government Code § 11135, the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq. (applicable to those with fifteen (15) or more employees), Executive Order 11246-Equal Employment Opportunity, as amended, its implementing regulations at 41 CFR Part 60, and all other applicable anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended. Nondiscrimination notices shall be included in all job postings and posted in a visible place in the offices of all applicable parties.

Section 3.15 General Indemnity

To the maximum extent permitted by law, Borrower agrees to and shall defend, indemnify and hold the City and the City Indemnitees harmless from and against all claims, liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from, in connection with or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person resulting from the alleged negligent or intentional acts or omissions of Borrower, its officers, agents or employees in the performance of this Agreement or construction of the Project. This indemnification provision

supplements and in no way limits the scope of the indemnification set out elsewhere in this Agreement. The indemnity obligation of Borrower under this section shall survive the expiration or termination, for any reason, of this Agreement.

Without affecting the rights of the City Indemnitees under any provisions of this Agreement, Borrower shall not be required to indemnify and hold harmless the City Indemnitees for liability attributable to the gross negligence or intentional misconduct of the City Indemnitees, provided such gross negligence or intentional misconduct is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where the City Indemnitees are shown to have been grossly negligent or to have acted with intentional misconduct and where the City Indemnitees' gross negligence or intentional misconduct accounts for only a percentage of the liability involved, the obligation of Borrower will be for that entire portion or percentage of liability not attributable to the gross negligence or intentional misconduct of the City Indemnitees.

Section 3.16 Insurance Requirements

During the term of this Agreement or the City Regulatory Agreement, and for any time required thereafter as set forth below, the Borrower shall purchase and maintain in full force and effect, at no cost to the City, the following insurance policies:

(1) Commercial general liability policy (bodily injury and property damage);

(2) Comprehensive automobile liability policy; and

(3) Workers' compensation and employer's liability policy.

Said policies shall be maintained with respect to employees and vehicles assigned to the performance of work under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in Attachment No. 4 entitled "Insurance Requirements" attached hereto.

Section 3.17 Disclaimer of Responsibility by the City

Except as provided in this Agreement, the City neither undertakes nor assumes nor will have any responsibility, right or duty to Borrower or to any third party to review, inspect, supervise, pass judgment upon or inform Borrower or any third party of any matter in connection with the Property, whether with respect to the condition of the Property or its quality, adequacy or suitability to the Project, or with respect to any person furnishing services with regard to the Property, or otherwise. Borrower and all third parties shall rely upon its or their own judgment regarding such matters, and any review, inspection, supervision, exercise of judgment or information supplied to Borrower or to any third party by the City or the City in connection with such matter is for the public purpose of providing affordable housing, and neither Borrower (except for the purposes set forth in this Agreement) nor any third party is entitled to rely thereon.

Section 3.18 Rights of Access

At any time prior to Completion, City and its representatives shall have the reasonable right of access to the Property, upon two (2) Business Days' written notice to Borrower (except in the case of an emergency, in which case City shall provide such notice as may be practical under the circumstances), without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Improvements. Such representatives of City shall be those who are so identified in writing by City.

Section 3.19 Taxes and Assessments

Borrower shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Project during Borrower's ownership thereof, subject to Borrower's right to contest in good faith any such taxes through the appropriate processes. Borrower shall remove or have removed any levy or attachment made on the Project or any part thereof, or assure the satisfaction thereof within a reasonable time. Nothing herein contained shall be deemed to prohibit the Borrower from (a) obtaining an abatement of real estate taxes under Revenue and Taxation Code Section 214(g) or (b) contesting the validity or amount of any tax assessment, encumbrance or lien, or to limit the remedies available to the Borrower in respect thereto.

Section 3.20 Liens and Stop Notices

Except for the liens on the Project granted in connection with the City Loan, the County Loan, the Seller Loan, the Senior Loans, and any other approved loans that are included in the approved Project Pro Forma, Borrower shall not allow to be placed on the Project or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Project, Borrower shall within thirty (30) calendar days of such recording or service or within ten (10) Business Days of the City's demand, whichever last occurs: (a) pay and discharge the same (or cause the general contractor to do so); (b) effect the release thereof by recording and delivering to the City a surety bond in sufficient form and amount; (c) demonstrate to the City's reasonable satisfaction that One Hundred Twenty Five Percent (125%) of the stop notice amount is set aside in the unfunded portion of the Construction Budget to account for such claim; or (d) provide such other assurances which the City deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of the City from the effect of such lien or bonded stop notice.

Section 3.21 Rights to Architectural Agreements and Plans and Specifications

Subject to the rights of the Senior Lenders , Borrower has assigned to City as security for Borrower's obligations hereunder (a) all environmental, architectural, design, engineering and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto, and (b) all reports, studies, plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto, heretofore or hereafter prepared by any architect, engineer or other person or entity (collectively the "**Architect**"), for or on behalf of Borrower in connection with the construction of the Project pursuant to that certain Assignment of Agreements by Borrower for the benefit of City dated as of the date hereof.

Section 3.22 Security Financing; Right of Holders

(a) City Approval of Financing Liens All mortgages and deeds of trust to be recorded against the Project prior to Conversion shall be approved by City.

(b) Holder Not Obligated to Construct Project Improvements The holder of any mortgage or deed of trust or other security interest recorded against the Project will in no way be obligated by the provisions of this Agreement to construct or complete the Improvements or to guarantee construction or completion.

(c) Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure Whenever the City will deliver any notice or demand to Borrower with respect to any breach or default by Borrower in completion of construction of the Improvements, the City will at the same time deliver to each holder of record of any mortgage, deed of trust or other security interest recorded against the Project, provided that failure to provide such notice shall not affect the City's remedies hereunder. Each holder will (insofar as the rights of the City are concerned) have the right at its option within thirty (30) calendar days after the receipt of the notice, to cure or remedy or commence to cure or remedy any default and to add the cost to the security interest debt and the lien on its security interest. Nothing contained in this Agreement will be deemed to permit or authorize the holder to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect the Improvements or construction already made) without first having expressly assumed Borrower's obligations to the City by written agreement satisfactory to the City. The holder in that event must agree to complete, in the manner provided in this Agreement, the Improvements to which the lien or title of such holder relates, and submit evidence satisfactory to the City that it has the qualifications and financial responsibility necessary to perform the obligations. Any holder properly completing the Improvements will be entitled, upon written request made to the City, to a Release of Construction Covenants from the City.

Section 3.23 Liens on Personal Property

Other than in connection with the provision of vending, laundry, cable, satellite TV, or telecommunications services at the Project, Borrower shall not install in, or use in connection with, the Project, any personal property which any party other than the City or Senior Lenders have the right to remove or repossess under any circumstances, or on which any party other than the City or Senior Lenders has a lien (other than liens permitted in accordance with the terms of this Agreement).

Section 3.24 Removal of Personal Property

Borrower shall not cause or permit the removal from the Project of any items of personal property owned by Borrower (other than tools and equipment used in the development of the Project) unless (i) there is no uncured event of default by Borrower under this Agreement, and (ii) Borrower promptly substitutes and installs on the Project other items of equal or greater value in the operation of the Project, all of which items shall be free of liens (other than liens permitted in accordance with the terms of this Agreement) and shall be subject to the lien of the City Deed of Trust, and Borrower executes and delivers to the City all documents reasonably required by the

City in connection with the attachment of such liens to such items. Borrower shall keep detailed records of each such removal and shall make such records available to the City upon written request from time to time.

Section 3.25 Release of Construction Covenants

Promptly after Completion of the Improvements, as generally and specifically required by this Agreement and in particular the Scope of Development, the City shall furnish Borrower with a Release of Construction Covenants upon written request therefor by Borrower. The City shall not unreasonably withhold such Release of Construction Covenants and such Release of Construction Covenants shall be issued so long as Borrower has constructed and developed the Property in accordance with this Agreement and substantially in accordance with the construction drawings approved by the City for the Project. Such Release of Construction Covenants shall be, and shall so state, conclusive determination of satisfactory completion of all of the construction obligations required by this Agreement. The Release of Construction Covenants shall be in a form mutually, reasonably, and in good faith agreed upon by City and Borrower and shall be a conclusive determination of satisfactory completion of the Project and all construction obligations required by this Agreement. Any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Project shall not (because of such ownership, purchase, lease or acquisition) incur any construction obligation or liability under this Agreement.

The Release of Construction Covenants shall be in such form as to permit it to be recorded in the Recorder's Office of Santa Clara County. Certificates of Completion of construction for less than the completed Improvements and development of the entire Property shall not be recorded.

If the City refuses or fails to furnish a Release of Construction Covenants for the Property after written request from Borrower, the City shall, within thirty (30) days of the written request, provide Borrower with a written statement of the reasons the City refused or failed to furnish a Release of Construction Covenants. The statement shall also contain the City's opinion of the action Borrower must take to obtain a Release of Construction Covenants. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, and/or minor items, the City will issue its Release of Construction Covenants upon the posting of a bond by Borrower with the City in an amount representing a fair value of the work not yet completed.

Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Borrower to the beneficiary of the Construction Loan Deed of Trust or any other Person. Such Release of Construction Covenants is not a notice of completion as referred to in Section 3093 of the California Civil Code.

Section 3.26 Developer Fee

Borrower shall not receive payments of the Developer Fee in excess of the amounts or ahead of a written schedule contained in the Project Pro Forma approved by the City.

Borrower covenants and agrees that it shall not receive payments of Developer Fee beyond the first payment agreed to in the schedule described above unless and until it has demonstrated to

the City's reasonable satisfaction that, to the extent applicable, all prevailing wage obligations with respect to the construction of the Project have been met in accordance with the terms and conditions of the City Loan Documents. Borrower further agrees that in the event any prevailing wage obligations, draw holdbacks or related fees that may become payable to the City hereunder cannot be funded from any other source, that such amounts shall be payable to the City from Developer Fee.

In the event that actual construction costs exceed the Construction Budget, Borrower shall defer the amount of the Developer Fee necessary to cover the actual construction costs to the extent unfunded by sources other than the City Loan and such portion of the Developer Fee shall be considered deferred Developer Fee for purposes of this Agreement.

PART 4. SALES AND USE TAX.

Borrower shall use- commercially reasonable efforts to. adopt sales and use tax reporting procedures allowable under applicable law that will provide City (in its capacity as a Governmental Authority) the greatest allocation of California sales and use tax revenues feasible, and shall cause their general construction contractors, vendors and occupants of the Improvements to use commercially reasonable, efforts to adopt these procedures, including by designating the Property as the place of sale and place of use of materials, goods, and services to be used in connection with the construction and operation of the Project. Borrower shall propose to City for its reasonable approval a process that will designate the Property as the place of sale of fixtures furnished and installed by Borrower for the Project, and to do the same with respect to construction materials used in connection with the Improvements. Notwithstanding the foregoing, the failure of such general construction contractors, vendors and Improvement occupants to allocate sales and use tax revenues to the City shall not constitute a breach by Borrower under this Agreement. Borrower shall bear all costs associated with their obligations under this Part 4.

PART 5. USE OF THE PROPERTY

Section 5.1 Use Covenants

Borrower covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Project or any part thereof, that the Project shall be used, maintained and operated in compliance with the City Regulatory Agreement. Borrower further covenants and agrees for itself and its successors and assigns that the Affordable Units shall be continuously occupied or held vacant and made available to Qualified Tenants at an Affordable Rent during the Restricted Period. All uses conducted on the Project, including, without limitation, all activities undertaken by Borrower pursuant to this Agreement, shall conform to all applicable provisions of the Santa Clara City Code.

Section 5.2 Affordable Housing Requirements

(a) Affordable Units

Borrower covenants and agrees to make available, restrict occupancy to, and rent the Affordable Units solely to Qualified Tenants at an Affordable Rent during the Restricted Period.

(b) Duration of Affordability Requirements

The Affordable Units shall be subject to the requirements of this Section throughout the Restricted Period.

(c) Selection of Qualified Tenants

Prior to selecting any tenants for the Affordable Units, Borrower shall have obtained the approval of the City for the Management Plan (the terms of which shall comply with the City Regulatory Agreement), which shall include proposed tenant selection policies and criteria for the Affordable Units. The City shall review the Management Plan and approve or disapprove it within thirty (30) Business Days, provided that such which approval shall not be unreasonably conditioned or withheld. City's failure to respond within the timeframe set forth in the preceding sentence shall be deemed approval. If the Management Plan is not approved by the City, the City shall set forth in writing and notify Borrower of the City's reasons for withholding such approval. Borrower shall thereafter submit a revised Management Plan for City approval within fifteen (15) Business Days, which approval shall be granted or denied within fifteen (15) Business Days in accordance with the procedures set forth above.

In addition, the tenant selection policies and criteria shall:

(1) Be consistent with the purpose of providing housing for Qualified Tenants;

(2) Be reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease;

(3) Provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable; and

(4) Give prompt written notification to any rejected applicant of the grounds for any rejection.

Borrower shall manage and operate the Property in accordance with the approved Management Plan, including such amendments as may be approved in writing from time to time by the Borrower and the City, for the entire Restricted Period.

In connection with its Qualified Tenant selection process, Borrower agrees to obtain criminal background checks on all tenant applicants in accordance with all applicable Governmental Regulations. Borrower shall determine, in accordance with all applicable Governmental Regulations, whether or not the tenant applicant's arrest and/or conviction record, if any, warrants denial of such tenant's application. Borrower shall maintain or destroy the results of such criminal background checks in accordance with all applicable Governmental Regulations.

(d) Income Requirements

In order to assure compliance with the rent and occupancy restrictions set forth in the City Regulatory Agreement, Borrower shall, prior to the initial leasing of an Affordable Unit, verify the income of the proposed Household. Thereafter, on an annual basis throughout the Restricted Period, Borrower shall obtain and cause to be submitted to the City, at Borrower's

expense, a verification of all household sources of income as required by the City Regulatory Agreement.

(e) Lease Requirements

Prior to rental of any of the Affordable Units, Borrower shall submit a standard lease form to the City for the City's approval, which approval shall not unreasonably be withheld, conditioned or delayed. The standard lease agreement shall not be amended in any material respects (except as required by applicable laws) without prior written the City approval. Borrower shall enter into a lease in the form approved by the City, and containing those provisions required by the City Regulatory Agreement, with each Qualified Tenant of an Affordable Unit.

Section 5.3 Long Term Management of the Project

Borrower and the Property Manager shall enter into a written agreement regarding the services of the Property Manager (the "**Management Agreement**"). Property management fees paid to the Property Manager shall not exceed six percent (6%) of gross rents on an annual basis. The Management Agreement shall contain, inter alia, an express provision (a) obligating the Property Manager to cooperate fully with the City with respect to the on-site inspections to be made by the City pursuant to the City Regulatory Agreement, and (b) indicating that the term thereof shall not exceed twelve (12) months including a provision for termination by Borrower with or without cause at any time upon notice not to exceed thirty (30) days. Borrower shall obtain the City's written approval, not to be unreasonably withheld, conditioned or delayed, of the Property Manager prior to entering into any Management Agreement; provided that the City hereby approves the John Stewart Company as the initial Property Manager.

Section 5.4 Annual Budget and Quarterly Reporting

Borrower shall submit on or before the first day of each fiscal year after Completion of construction for the entire Restricted Period an estimated annual budget for management of the Property (the "**Annual Project Budget**"**)** in accordance with the Management Plan. The Annual Project Budget shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, taxes and special assessment levies, prorated amount required for insurance and all other expenses incident to the operation of the Project; and shall show the expected revenues to pay such expenses, including annual debt service requirements and reserve fund deposits and balances. Upon receipt by the City of a complete the Annual Project Budget, including any amendments proposed by the Borrower, shall be subject to the approval of the City, the City shall promptly review the same and approve or disapprove it within fifteen (15) Business Days, provided that such approval shall not be unreasonably conditioned or withheld. If the Annual Project Budget is not approved by the City, the City shall set forth in writing and notify Borrower of the City's reasons for withholding such approval. Borrower shall thereafter submit a revised Annual Project Budget for County approval within ten (10) Business Days, which approval shall be granted or denied within ten (10) Business Days in accordance with the procedures set forth above.

Beginning on the date of first occupancy, for each fiscal year of the Restricted Period, Borrower shall also submit on a quarterly basis a quarterly report for the management of the Property (the "**Quarterly Report**"**)** in a form that is reasonably acceptable to the City. The

Quarterly Report shall include a profit and loss statement, budget to date figures, and occupancy report. The City, in its sole discretion may waive the requirement of the Quarterly Report for one or more quarterly reporting periods. However, such waiver shall not operate to waive any subsequent requirement of the Quarterly Report for the Restricted Period upon written notice to Borrower by the City.

Section 5.5 Maintenance of the Property

Prior to the issuance of the Certificate of Occupancy, the Borrower shall prepare and submit to the City for review and approval a program (the "**Maintenance Program**"**)** for the exterior and interior maintenance of the Property and the Improvements. The Maintenance Program may be included within its Management Plan.

The Maintenance Program shall describe in reasonable detail the standards to be followed in maintaining the interior and exterior of the Improvements, including a schedule indicating the proposed frequency of each element of maintenance, and shall include, at a minimum, the following: periodic cleaning of the interior and exterior of the Improvements, including windows; removing graffiti; removing debris and waste materials and otherwise maintaining indoor and outdoor areas of the Property; maintaining any lawns, plants, shrubs and trees or other landscaping planted on the Property; performing inspections of all exterior features to determine whether repairs are required; conducting periodic protective treatments such as rust removal and caulking; conducting repairs to facades, roof, doors, windows and other exterior features; maintaining fencing and other security devices and systems; periodic repainting of the exterior; periodic repainting of the interior units and common areas; periodic replacing of the interior unit carpets; checking building systems, including, but not limited to the heating and cooling systems, smoke alarms and water heaters; checking interior unit appliances; and monitoring interior unit bathrooms for mold/mildew. The Maintenance Program, including any amendments proposed by the Borrower, shall be subject to the reasonable approval of the City.

At all times after Completion of construction during the Restricted Period, the Borrower shall maintain the Property and the Improvements in accordance with the approved Maintenance Program. To implement this requirement, Borrower agrees to budget sufficient funds to pay for all reasonably anticipated costs (as indicated in the Annual Maintenance Budget). In the event the Borrower fails to maintain the Property and the Improvements in accordance with the approved Maintenance Program, and does not cure such failure within thirty (30) days following notice from the City, the City shall have the right, but not the obligation, to enter the Property, correct any violation, and hold the Borrower responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Property. Prior to undertaking any work to correct any such maintenance deficiency, the City shall provide written notice that the Borrower correct the deficiency within a reasonable time. The Borrower shall have a reasonable time in which to comply following such notice from the City.

Section 5.6 Nondiscrimination Covenants

Borrower covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision

(m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any Unit or the Project nor shall Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the location, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of the Project.

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

All deeds, rental agreements, leases, or contracts made or entered into by Borrower as to the Units or the Project or any portion thereof, shall contain and be subject to the following nondiscrimination and nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

b. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location,

number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in connection with the performance of this contract nor shall the contracting party himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, contractors, subcontractors or vendees with respect to the premises."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

The covenants established herein shall, without regard to technical classification and designation, be binding on Borrower and any successors in interest to the Project, or any part thereof, for the benefit and in favor of the City and its successors and assigns. The covenants against discrimination shall run with the land and remain in effect in perpetuity.

Section 5.7 Conflict with the City Regulatory Agreement

In the event of a conflict between this Part 5 and the City Regulatory Agreement, the provisions of the City Regulatory Agreement shall control.

Section 5.8 Reserves [Note: Reserves to be discussed by the Parties.]

(a) Transition Reserve. If requested by any Senior Lender, Borrower covenants and agrees to fund a transition reserve in such amount as is required by the Senior Lender ("**Transition Reserve**") upon completion of construction. Such amounts shall be held in a separate interest-bearing trust account. Funds in the Transition Reserve shall be used solely to cover cash flow deficiencies of the Project arising from the termination, reduction or expiration of any project-based vouchers, to the extent the Project has project-based vouchers. All withdrawals from the Transition Reserve are subject to the prior written consent of the City, which such consent shall

not be unreasonably withheld or delayed. Any funds in the Transition Reserve upon such termination shall be deposited into a social services reserve (the "**Social Services Reserve**") to be held in a separate interest-bearing trust account. Borrower shall obtain the City's approval prior to any withdrawal from the Social Services Reserve, which approval may be accomplished by the City approval of Borrower's annual operating budget, including disbursements from the Social Services Reserve, or by a separate approval, which such approval shall not be unreasonably withheld or delayed.

(c) Operating Reserve. If requested by any Senior Lender or Investor Limited Partner, Borrower covenants and agrees to fund an operating reserve in the amount required by the Senior Lender or Investor Limited Partner ("**Operating Reserve**") upon completion of construction. Such amounts shall be held in a separate interest-bearing trust account. Funds in the Operating Reserve shall be used solely to cover cash flow deficiencies of the Project. All withdrawals from the Operating Reserve are subject to the prior written consent of the City, which such consent shall not be unreasonably withheld or delayed.

(d) Replacement Reserves. If requested by any Senior Lender or Investor Limited Partner, Borrower covenants and agrees to fund a replacement reserve in a capitalized amount as of the Conversion from operating income on monthly basis in amount required by the Senior Lender or Investor Limited Partner("**Replacement Reserve**"). Such amounts shall be held in a separate interest-bearing trust account. Funds in the Replacement Reserve shall be used solely to cover capital replacements for the Project. All withdrawals from the Replacement Reserve are subject to the prior written consent of the City, which such consent shall not be unreasonably withheld or delayed.

Section 5.9 Social Services

The Management Plan shall include a "Social Services Plan" and the Annual Project Budget shall implement the Social Services Plan. Borrower covenants and agrees to provide a Social Services Plan for the Project to the City. Borrower covenants and agrees to provide Social Services to the residents of the Project in accordance with the Social Services Plan. Borrower may request amendments to the Social Services Plan for written approval by the City, which approval of which shall not be unreasonably, withheld or delayed.

Section 5.10 Hazardous Substances

Concurrently with the execution of this Agreement, City and Borrower have entered into the City Environmental Indemnity.

Section 5.11 Monitoring Fee

On or before July 1 of each year, commencing on the July 1 following Conversion until the expiration of the Restricted Period, Borrower covenants and agrees to pay to the City the Monitoring Fee (as defined in the City Regulatory Agreement) for the immediately preceding calendar year or portion thereof, prorated for the number of months in the partial year; provided that the Monitoring Fee shall be reduced (but not below $0) to the extent that Borrower pays an affordable housing monitoring fee to the County.

Section 5.12 Effect of Violation of the Terms and Provisions of this Agreement

The City is deemed a beneficiary of the terms and provisions of this Agreement and the covenants herein, both for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Agreement and the covenants running with the land have been provided. The City shall have the right if the covenants contained in this Agreement are breached and such breach is not cured within the time periods set forth in Section 6.1, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants are entitled.

PART 6. DEFAULTS, REMEDIES, AND TERMINATION

Section 6.1 Defaults — General

Subject to the Force Majeure Delay and any extensions of time approved in writing by the parties, failure or delay by either party to perform any term or provision of this Agreement at the time indicated in this Agreement constitutes a default under this Agreement. As provided, hereinbelow, the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

If a monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default written notice of such default. The party in default shall have a period of thirty (30) days after such notice is given within which to cure the default prior to exercise of remedies by the injured party.

If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the party in default shall have such period to effect a cure prior to exercise of remedies by the injured party. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and the party in default (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the injured party.

If Borrower fails to take corrective action or cure the default within a reasonable time, the City shall give the Senior Lender and the Investor Limited Partner notice thereof. Subject to the terms of the Borrower's partnership agreement, the Investor Limited Partner may take such action, including removing and replacing the general partner or managing member of the Borrower with

a substitute general partner or member, who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. The City agrees to accept cures tendered by any Senior Lender or Investor Limited Partner within the cure periods provided in the Note. Additionally, in the event the Senior Lender or Investor Limited Partner is precluded from curing a non-monetary default due to a bankruptcy, injunction, or similar proceeding by or against Borrower or the general partner of Borrower, the City agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Senior Lender or Investor Limited Partner is so precluded from acting, not to exceed 90 days, provided such Investor Limited Partner and Senior Lender are otherwise in compliance with the foregoing provisions. In no event shall the City be precluded from exercising remedies if its rights become or are about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the first notice of default is given.

In the event of a default by Borrower of any of its obligations under the City Loan Documents and expiration of any applicable grace, notice and/or cure periods, Borrower shall pay to City interest on the outstanding principal of the City Loan, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, from the date of the default until the date that the default is cured or the City Loan is repaid in full.

City shall send to the Investor Limited Partner a copy of all notices of default and all other notices that City sends to Borrower, at the address for the Investor Limited Partner as provided by written notice to City by Borrower.

Section 6.2 Institution of Legal Actions

Subject to the notice and cure provisions of Section 6.1, in addition to any other rights or remedies (and except as otherwise provided in this Agreement), either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Santa Clara, State of California, in any other appropriate court of that county.

Section 6.3 Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this agreement.

Section 6.4 Acceptance of Service of Process

In the event that any legal action is commenced by the Borrower against the City, service of process on the City shall be made by personal service upon the City Manager of the City, or in such other manner as may be provided by law.

In the event that any legal action is commenced by the City against the Borrower, service of process on the Borrower shall be made by personal service upon the Borrower (or upon a general partner, managing member or officer of the Borrower)and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

Section 6.5 Rights and Remedies Are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 6.6 Damages

If either party defaults with regard to any of the provisions of this Agreement, subject to the notice and cure provisions of Section 6.1 and the non-recourse provisions of Section 6.10, the defaulting party shall be liable to the non-defaulting party for any damages caused by such default, and the non-defaulting party may, after such notice and opportunity to cure (but not before) commence an action for damages against the defaulting party with respect to such default. Notwithstanding the foregoing, neither Borrower nor City shall have the right to recover any punitive, consequential, or special damages.

Section 6.7 Specific Performance

If either party defaults with regard to any of the provisions of this Agreement, subject to the notice and cure provisions of Section 6.1, the non-defaulting party, at its option, may, after such notice and opportunity to cure (but not before) commence an action for specific performance of the terms of this Agreement pertaining to such default.

Section 6.8 Termination by Either Party

Either party shall have the right to terminate this Agreement in the event the other party is in default of any material term or provision of this Agreement, and, following notice, fails to cure such default within the time provided in Section 6.1.

Section 6.9 Automatic Termination

This Agreement shall automatically terminate upon repayment of the City Loan in full.

Section 6.10 Limited Recourse Obligations After Conversion

The City Loan is a recourse obligation of the Borrower prior to Conversion.

Subject to the provisions and limitations of this Section 6.10, the obligation to repay the City Loan is a nonrecourse obligation of the Borrower from and after Conversion. From and after Conversion, (a) neither Borrower nor any general partner or limited partner of Borrower shall have any personal liability for repayment of the City Loan, except as provided in this Section 6.10, and (b) the sole recourse of City shall be the exercise of its rights against the Property and any related security for the City Loan.

Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the City Note or the City Deed of Trust; (b) limit the right of the City to name

Borrower as a party defendant in any action or suit for judicial foreclosure and sale under the City Note or the City Deed of Trust or any action or proceeding thereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (c) release or impair the City Note or the City Deed of Trust; (d) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the City Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the City Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to City; or (g) affect in any way the validity of any guarantee or indemnity from any person other than the Borrower of all or any of the obligations evidenced and secured by the City Note or the City Deed of Trust. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of a default, Borrower shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Borrower, its principals, shareholders, partners received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the occurrence of such default, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the Property, ordinary and reasonable capital improvements to the Property, debt service, real estate taxes in respect of the Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Borrower in connection with the operation of the Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, City may recover directly from Borrower or from any other party:

(A) any damages, costs and expenses incurred by City as a result of fraud or any criminal act or acts of Borrower or any partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general or limited partner of such member or general partner;

(B) any damages, costs and expenses incurred by City as a result of any misappropriation of funds provided for the construction of the Improvements, rents and revenues from the operation of the Improvements or proceeds of insurance policies or condemnation proceeds by Borrower or any of its partners; and

(C) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that City shall pay Borrower's reasonable court costs and attorneys' fees if Borrower is the prevailing party in any such enforcement or collection action).

Section 6.11 Borrower Representations and Warranties

Borrower represents and warrants as of the effective date of this Agreement (1) that it has access to professional advice and support to the extent necessary to enable Borrower to fully comply with the terms of this Agreement; (2) that it and its general partners are duly organized, validly existing and in good standing under the laws of the State of California; (3) that it has the full power and City to undertake the Project and to execute this Agreement; (4) that the persons

executing and delivering this Agreement are authorized to execute and deliver such documents on behalf of Borrower; (5) except as disclosed to the City in writing, there are no actions or proceedings pending or, to the best of the Borrower's knowledge, threatened against the Borrower or Borrower's general partners before any court or administrative agency in any way connected with the Property or the Project which could adversely affect the Borrower's ability to perform the activities contemplated hereunder; (6) neither this Agreement nor anything provided to be done hereunder violates or shall violate any contract, agreement or instrument to which the Borrower or a general partner of Borrower is a party or which affects the Project or any part thereof; (7) the Borrower is not in default in respect of any of its obligations or liabilities pertaining to this Agreement, nor is there any state of facts or circumstances or conditions or events which, after notice, lapse of time, or both, would constitute or result in any such default under this Agreement; and (8) neither the Borrower nor its general partners has entered into any agreements which will adversely affect the Borrower's right to develop and use the Project as provided in this Agreement, and neither the Borrower nor its general partners will enter into any such agreements after the date hereof.

PART 7. GENERAL PROVISIONS

Section 7.1 Notices

Formal notices, demands and communications between the City and the Borrower and Investor Limited Partner shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the City and the Borrower and Investor Limited Partner, as designated in Sections 1.4 and 1.5 hereof. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 7.1. Any notice that is transmitted by electronic facsimile or electronic mail transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by the recipient; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

Section 7.2 Conflicts of Interest

No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested.

The Borrower warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

Section 7.3 Nonliability of City Officials and Employees

No member, official, employee or consultant of the City shall be personally liable to the Borrower, or any successor in interest, in the event of any default or breach by the City or for any

amount which may become due to the Borrower or to its successor, or on any obligations under the terms of this Agreement.

Section 7.4 Force Majeure

In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to Force Majeure Events.

Section 7.5 Inspection of Books and Records

The Borrower shall maintain complete, accurate, and current records pertaining to the Property for a period of five (5) years after the creation of such records, and shall permit any duly authorized representative of the City to inspect and copy records, during regular business hours upon reasonable advance notice. Records must be kept accurate and current.

Section 7.6 Approvals

Except as otherwise expressly provided in this Agreement, approvals required of City or Borrower in this Agreement, including the attachments hereto, shall not be unreasonably withheld or delayed. All approvals shall be in writing. Except as otherwise expressly provided in this Agreement, failure by either party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval, and failure by either party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval. Any approval or deemed approval by the City shall not waive any obligation of Borrower under the City Loan Documents.

Section 7.7 Administration

This Agreement shall be administered by the City Manager of the City or his or her designated representative (collectively, the "**City Representative**") following execution of this Agreement by the City. Whenever a reference is made in this Agreement to an action, finding or approval to be undertaken by the City, the City Representative or his or her designee are authorized to act on behalf of the City unless specifically provided otherwise or the context should require otherwise. The City Representative or his or her designee shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement and to negotiate and finalize all agreements and documents referred to herein on behalf of the City, so long as such actions do not substantially change the uses or development permitted on the Project, or add to the costs of the City as specified herein or as agreed to by the City Council or other authorized body. Notwithstanding the foregoing, the City Representative or his or her designee may in their sole and absolute discretion refer any matter to the board of the City and/or other authorized body for action, direction or approval.

Section 7.8 No Third Party Beneficiaries

This Agreement is made solely and specifically between the City and Borrower and their respective successors and assigns; and, except as expressly provided otherwise in this Agreement, no other person will have any rights, interest or claims under this Agreement or be

entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

Section 7.9 Reimbursement of Expenses

Borrower shall reimburse the City for all reasonable costs and expenses (including the allocated cost of the City staff and resources) incurred by the City in connection with the provision and administration of the City Loan and the City Loan Documents.

Section 7.10 Borrower Authority

Borrower hereby represents that the person executing this Agreement on behalf of Borrower has full authority to do so and to bind Borrower to perform pursuant to the terms and conditions of this Agreement.

Section 7.11 No Partnership

Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, or any other similar relationship between the parties hereto or cause City to be responsible in any way for the debts or obligations of Borrower or any other Person.

Section 7.12 Compliance with Law

Borrower agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the development and use of the Property and the Improvements, as well as operations conducted thereon.

Section 7.13 Binding Effect

This Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

Section 7.14 Incorporation by Reference

Each of the attachments and exhibits attached hereto is incorporated herein by this reference.

Section 7.15 Counterparts

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

Section 7.16 Mutual Cooperation

Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement.

Section 7.17 Construction and Interpretation of Agreement

The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

If any term or provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement an enforceable clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

The captions of the articles, sections and subsections herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

References in this instrument to this "Agreement" mean, refer to and include this instrument as well as any riders, exhibits, addenda and attachments hereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in this instrument. Any references to any covenant, condition, obligation, and/or undertaking "herein," "hereunder," or "pursuant hereto" (or language of like import) shall mean, refer to, and include the covenants, obligations, and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, and attachments or other documents affixed to or expressly incorporated by reference in this instrument.

As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

PART 8. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement shall constitute the entire understanding and agreement of the parties.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Property.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or the Borrower, and all amendment hereto must be in writing

and signed by the appropriate authorities of the City and the Borrower. This Agreement and any provisions hereof may be amended by mutual written agreement by the Borrower and the City.

[Signatures appear on next page.]

IN WITNESS WHEREOF, the City and Borrower have signed this Agreement as of the date and year first above written.

CITY:

CITY OF SANTA CLARA,
a chartered California municipal corporation

By: _____
Deanna J. Santana, City Manager

APPROVED AS TO FORM:

By: _____
Brian Doyle, City Attorney

[SIGNATURE PAGE TO LOAN AGREEMENT]

[PAGE 1 OF 2]

BORROWER:

Monroe Street Housing Partners, L.P.,
a California limited partnership

By: Housing Choices Coalition For Persons With Developmental Disabilities, Inc.,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Name: _____
Title: _____

By: Freebird Development Company, LLC,
a California limited liability company,
its administrative general partner

By: _____
Robin Zimbler, Manager

[SIGNATURE PAGE TO LOAN AGREEMENT]

[PAGE 2 OF 2]

ATTACHMENT NO. 1

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SANTA CLARA, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

[to be inserted]

Assessor's Parcel Number: 224-37-068

ATTACHMENT NO. 2

SCHEDULE OF PERFORMANCE

Construction Start .....[]

Construction Completion.....[]

PIS.....[]

100% Occupied.....[]

8609 Certification .....[]

ATTACHMENT NO. 3

SCOPE OF DEVELOPMENT

[Borrower to provide]

ATTACHMENT NO. 4

INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $5,000,000 Each occurrence
   $5,000,000 General Aggregate
   $5,000,000 Products/Completed Operations Aggregate
   $5,000,000 Personal Injury
   $5,000,000 Project Aggregate

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than five million dollars ($5,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of five million dollars ($5,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars ($1,000,000) policy limit Bodily Injury by disease, one million dollars ($1,000,000) each accident/Bodily Injury and one million dollars ($1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. POLLUTION LIABILITY

In the event that this contract involves hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors shall provide a Contractor's Pollution Liability Insurance policy with coverage limits not less than five million dollars ($5,000,000) each claim in connection with the Work performed under this Contract. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." Any deductible must be declared to and approved by City. Such policy shall cover, at a minimum, liability for bodily injury, damage to and loss of use of property, and clean–up costs arising from sudden, accidental and gradual pollution and remediation in connection with the Work under this Agreement. Contractor will use its best efforts to have the City, Council, officers, employees and volunteers added as additional insureds under this policy. The following provisions shall apply:

1. The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

2. Products/completed operations coverage shall extend a minimum of 3 years after project completion.

3. Coverage shall be included on behalf of the insured for covered claims arising out of the actions of independent contractors.

4. If the insured is using subcontractors the Policy must include work performed "by or on behalf" of the insured.

5. Policy shall contain no language that would invalidate or remove the insurer's duty to defend or indemnify for claims or suits expressly excluded from coverage. Policy shall specifically provide for a duty to defend on the part of the insurer.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. General Aggregate. The general aggregate limits shall apply separately to Contractor's work under this Agreement providing coverage at least as broad as Insurance Services Office (ISO) Endorsement CG 2503, 1985 Edition, or insurer's equivalent (CGL);

4. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

   b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

5. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Document 00820.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Requirements of specific insurance coverage features described in this Agreement shall not be construed to be a limitation of liability on the part of Contractor or any of its subcontractors, nor to relieve any of them of any liability or responsibility under the Contract Documents, as a matter of law or otherwise. Such requirements are not intended by any Party to be limited to providing coverage for the vicarious liability of the City or to the supervisory role, if any, of City. All insurance coverage provided pursuant to this Agreement in any way relating to City is intended to apply to the full extent of the policies involved.

2. Contractor shall maintain all required insurance policies in full force and effect during entire period of performance of the Services under this Agreement of Contract Documents. Contractor shall also keep such insurance in force during warranty and guarantee periods. At time of making application for extension of time, Contractor shall submit evidence that insurance policies will be in effect during requested additional period of time.

3. City reserves the right, at any time during the term of this Agreement to change the amounts and types of insurance required by giving the Contractor thirty (30) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate in good faith additional compensation proportional to the increased benefit to City.

4. Any type of insurance or any increase of limits of liability not described in this Exhibit which Contractor requires for its own protection or in compliance with applicable statutes or regulations, shall be Contractors' responsibility and at its own expense.

5. No liability insurance coverage provided by Contractor to comply with the terms of this Agreement shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right of subrogation prior to a loss. Contractor waives its right of subrogation against Indemnitees. Any property insurance policies affected by Contractor shall be endorsed to delete the subrogation condition as to indemnitees or shall specifically allow Contractor to waive subrogation prior to a loss. Contractor hereby waives any right of recovery against the indemnitees and agrees to require any subcontractor to do so.

6. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and

review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

7. Contractor shall cooperate fully with City and Contractor's insurance companies in any safety and accident prevention program and claims handling procedures as established for the performance of Services under this Agreement.

8. All coverage types and limits required under this Agreement are subject to approval, modification and additional requirements by the City, as the need arises. Contractor shall not make any reductions in scope of coverage which may affect City's protection without City's prior written consent.

9. For purposes of applying insurance coverage only, all contracts pertaining to the performance of services will be deemed to be executed when finalized and any activity commences in furtherance of performance under this agreement.

10. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any of the insurance requirements set forth in this Agreement in no way imposes any additional obligations on City nor does it waive any of the City's rights under this Agreement or any other regard.

11. Any provision in this Agreement dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the Parties here to be interpreted as such.

12. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

13. Contractor agrees to obtain and provide to City evidence of Professional Liability insurance for Architects or Engineers if engaged by Contractor to perform any of the Services required under this Agreement. City shall determine the minimum coverage and policy limits required, after consultation with Contractor.

14. The City acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. The Contractor's insurance obligations under this Agreement under may be satisfied in whole or in part by adequately funded self-insurance retention, but only after

approval from the City Attorney's Office upon satisfactory evidence of financial capacity.

15. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

H. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.
City of Santa Clara [*insert City department name here]
P.O. Box 100085 – S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

ATTACHMENT NO. 5

PROJECT BUDGET

(To Be Attached)

ATTACHMENT NO. 6

CLOSING REQUIREMENTS

The following are the Closing Requirements:

1. Construction Budget and Construction Loan. Borrower shall have submitted and obtained the City's approval of the Construction Budget and Construction Loan, showing the projected predevelopment and construction costs of the Improvements and a sources-and-uses statement showing that the projected funding sources will be available as needed to fund all such projected costs at the time incurred. The City approval of the Construction Loan shall not constitute a waiver by the City of any breach or violation of this Agreement that is a result of acts that are or purport to be in compliance with or in furtherance of said Construction Loan.

2. Governmental Approvals. The City shall have received evidence reasonably acceptable to it that Developer has obtained all Governmental Approvals necessary for the construction and completion of the Project, provided that ready-to-issue letters with respect to building permits shall be acceptable.

3. Project Pro Forma. Borrower shall have submitted and the City shall have approved the Project Pro Forma.

4. Construction Bonds. To the extent that the Construction Lender and/or the Investor Limited Partner requires payment and performance bonds in connection with the construction of the Project, Borrower shall have obtained and delivered to the City copies of the bonds meeting the Construction Lender's and/or the Investor Limited Partner's requirements for such bonds and naming City as co-obligee.

5. Construction Package. Borrower shall have submitted and the City have approved all material aspects of the construction process, including, without limitation, lists of subcontractors, and other construction related documentation which may be reasonably requested by the City.

6. Plans and Specifications. Borrower shall have submitted and the City shall have approved the Plans and Specifications for the Project.

7. Insurance Requirements. Borrower, at its cost, shall have procured and be maintaining in full force and effect insurance consistent with the Insurance Requirements, and shall have provided City with evidence of such insurance.

8. Architectural Contract. Borrower shall have delivered, and the City shall have approved, a contract with the architect of the Project.

9. Corporate Authority; Good Standing. Borrower shall have delivered to the City satisfactory evidence of Borrower's authority to enter into the City Loan Documents, and good standing certificates for the Borrower and its partners dated within thirty (30) days of Closing.

10. Miscellaneous. Borrower shall have delivered to the City any other item reasonably deemed necessary by the City and shall have fulfilled any other condition reasonably required by the City.

ATTACHMENT NO. 7

CONVERSION REQUIREMENTS

The City shall have no obligation to convert the City Loan to a term loan for permanent financing of the Project except upon satisfaction of the conditions precedent set forth in this Attachment No. 7, or waiver thereof by the City in its sole discretion.

1. No Default. Subject to applicable notice and cure periods, there shall be no condition, event or act which would constitute an event of default by Borrower under the City Loan Documents, the Construction Contract, the Construction Loan, the County Loan, the Seller Loan, the Limited Partnership Agreement, or any other agreement secured by an interest in the Project or providing financing for the Project, or which upon the giving of notice or the passage of time, or both, would constitute such an event of default.

2. Representations and Warranties. All representations and warranties of Borrower herein contained in this Agreement shall be true and correct in all material respects as and when made and as of the proposed date of conversion to a permanent loan.

3. No Stop Notice. No stop notice (whether bonded or not) shall have been served upon or otherwise delivered to Borrower, the City or Construction Lender in connection with the development of the Project or otherwise in connection with the City Loan, unless Borrower shall have (or shall be with the proceeds of a requested disbursement) (a) paid and discharged the same, or (b) effected the release thereof by delivering to the City a surety bond complying with the requirements of applicable Governmental Regulations for such release.

4. No Liens. No claim of lien, notice and claim of mechanic's lien or other similar document or instrument shall have been recorded against the Project or any portion thereof, unless Borrower shall have (or shall with the proceeds of the requested disbursement) (a) paid and discharged the same, (b) effected the release thereof by delivering to the City a surety bond complying with the requirements of applicable Governmental Regulations for such release, or by insurance over the same, or (c) caused the Title Company to commit in writing to issue a policy of title insurance showing such lien not to be an exception to title. City shall have received (i) a copy of the recorded notice of completion, and (ii) either (A) evidence that the statutory lien period has expired, or (B) lien waivers from the Contractor and any subcontractors that previously filed a preliminary notice that they are performing work on the Project that may be subject to mechanic's liens

5. Governmental Regulations. There shall be no condition, event or act existing in connection with the Project which constitutes, or would, with the passage of time, constitute a material violation of any applicable Governmental Regulation.

6. Annual Reporting Forms. Borrower shall have submitted all annual reporting forms required to be submitted to City pursuant to the City Regulatory Agreement as of the date of Conversion.

7. Evidence of Equity Contribution. Borrower shall have provided evidence that Borrower has received capital contributions from the Investor Limited Partner in an amount not less the amount required by the Limited Partnership Agreement. Borrower shall have demonstrated to the City's reasonable satisfaction that such monies have been spent in substantial accordance with the Project Pro Forma or will be spent in accordance with the Project Pro Forma.

8. Rent Schedule; Permanent Pro Forma; Operating Budget. Borrower shall have submitted, the following for the Project, all prepared as of the completion of construction: (a) the Rent Schedule; (b) a Permanent Pro Forma; and (c) an Operating Budget.

9. Management Plan. Borrower shall have submitted, and City shall have approved, the Management Plan.

10. Social Services Plan. Borrower shall have submitted a social services plan for the Project, including a budget therefor incorporated into the Operating Budget.

11. Insurance. Borrower, at its cost, shall have procured and be maintaining in full force and effect insurance consistent with the Insurance Requirements and in the amounts specified therein.

12. Construction Loan. The Construction Loan shall be paid in full with all available funds, or paid down, as applicable, and converted to a permanent loan. Any documents required to be recorded in connection therewith shall be executed and recorded in the Official Records.

13. Reserves. Borrower shall have deposited or will be concurrently depositing any reserves required by this Agreement and the Project Pro Forma into one or more separate interest-bearing accounts to be used solely for the Project.

14. Draft Cost Certificate. Borrower shall have provided City with a copy of the draft cost certificate.[Note: final required if any other financing party requires it.]

PROMISSORY NOTE
(this "**Note**")

Santa Clara, California
$6,500,000 [_] 1, 202[_]

FOR VALUE RECEIVED, **MONROE STREET HOUSING PARTNERS, L.P.,** , a California limited partnership ("**Borrower**"), hereby promises to pay to the CITY OF SANTA CLARA ("**City**"), a public body, corporate and politic, or order, a principal amount of $6,500,000 (the "**City Loan**"). This Note is given pursuant to that certain Loan Agreement of even date herewith, between Borrower and the City (the "**City Loan Agreement**") and evidences the City Loan to Borrower, which provides part of the financing for the development of that certain real property located at 22330 Monroe in the City of Santa Clara, California and legally described in the City Deed of Trust (the "**Property**"). The obligation of Borrower to City hereunder is subject to the terms of the City Loan Agreement, this Note and the other City Loan Documents. Said documents are public records on file in the offices of City. The Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided.

Definitions. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the City Loan Agreement. In addition, the following terms shall have the following meanings:

"**Annual Financial Statement**" shall mean the annual audited financial statement of Revenue and Operating Expenses and balance sheet for the Improvements, prepared at the Borrower's expense, by an independent certified public accountant reasonably acceptable to the City, which shall form the basis for determining the Residual Receipts.

"**City's Proportionate Share**" shall mean the City's pro-rata share of the total original outstanding principal amount due under the following approved loans, which is [_]%, so long as such loans are outstanding at the time of determination of City's Proportionate Share: (a) City Loan: $6,500,000; (b) County Loan: $3,200,000; (c) the Seller Loan: $5,200,000 and (d) [HCD loan, etc.].

"**Operating Expenses**" shall mean all reasonable and actual costs and expenses of operating, managing and maintaining the Project including without limitation: *[Fee amount will tie to permitted fees under other soft loans/HCD; final terms to be determined and approved by City Housing Division]*

1. debt service, reserves and other payments currently due or payable on a non-optional basis on any Senior Loan, the Monitoring Fee and any administrative fee payable pursuant to the County.

2. payments for supportive services to Project residents, including without limitation the salary of on-site service coordinators and supervision of such service staff and any other costs related to any services required by any regulatory agreement or similar document or as approved by the City;

3. payments for property management staffing, including without limitation the salary of on-site property managers and supervision of such managers and any other costs related to any property management function required by any regulatory agreement or similar document or as approved by the City;

4. Property management, service management, and accounting and administration fees, and reimbursements in amounts in accordance with industry standards for similar developments, which shall not include tax credit shortfall payments or similar payments or indemnities in favor of the limited partner(s) of Borrower;

5. deposits to operating, replacement reserve, or any other reserve accounts which are either (i) commercially reasonable, or (ii) required by any Senior Lender or as required under the Limited Partnership Agreement;

6. costs of restoring the Project after damage, destruction or condemnation;

7. Project organizational costs (e.g., annual franchise tax payments) and direct costs associated with accounting, tax preparation and legal fees of Borrower incurred in the ordinary course of business;

8. any extraordinary costs or expenses approved by City;

9. maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting, and decorating, cleaning, common systems repairs, general repairs, janitorial supplies, and others, and costs of restoring the Project after damage, destruction or condemnation;

10. Project real estate taxes (if property tax welfare exemption become ineligible) and other taxes, assessments and impositions that are not exempt under the welfare exemption;

11. Payment of any previously unpaid portion of the Developer Fee for the Project;

12. general administrative expenses including but not limited to advertising, marketing, security services and systems, professional fees for legal, audit, accounting and tax returns, and other;

13. current and accrued partnership management fee with annual earnings in the amount of $[_] increasing by [_]% annually, and current and accrued limited partner investor services fee with annual earnings in the amount of $[_] increasing by [_]% annually, beginning the first calendar year the Project receives rental income; repayment of any limited partner loans and general partner operating deficit loans pursuant to the Limited Partnership Agreement, any advances by partners required under the Limited Partnership Agreement, if applicable, of Borrower and any fees to partners

required under the Partnership Agreement; tax credit adjustor payments, taxes owed on taxable income allocated to the limited partner, replenishing of the Operating Reserve as required pursuant to the Limited Partnership Agreement;

14. Tenant resident services in the annual amount of $[_] and increasing by no more than [_]% each calendar year, or as otherwise amended in writing;

15. utility services not paid for directly by the tenants, including but not limited to water, sewer, trash collection, gas and electricity; and

16. Premiums for property damage and liability insurance.

"**Residual Receipts**" shall mean (a) the Revenue minus (b) the Operating Expenses. All calculations of Residual Receipts shall be subject to verification and reasonable approval by the City.

"**Revenue**" shall mean all income derived from the Project (excluding loan proceeds, insurance proceeds (except those for loss of business), capital contributions, tenant security deposits, and any interest earned on said deposit, and includes, without limitation:

1. All rents (including rent on commercial or common space within the Project) and rent subsidies, if any;

2. interest on reserves, unless such interest remains in the applicable reserve account;

3. receipts from laundry, parking, or other services for which a fee is charged; and

4. insurance proceeds or condemnation awards actually received by Borrower after casualty to or condemnation of the Project; provided, however, Borrower shall not be deemed to have "received' (nor shall Operating Revenues include) all or any portion of insurance proceeds or condemnation award that is applied by a senior lender of Sources of Funding towards payment of costs and expenses or in payment of outstanding principal, interest, and/or charges under the senior lender's loan or deed of trust securing the loan.

"**Soft Lenders' Share of Residual Receipts**" is defined as fifty percent (50%) of Residual Receipts.

"**Term**" of this Note shall mean fifty-five (55) years from Conversion.

1. This Note evidences the obligation of the Borrower to the City for the repayment of the City Loan. None of the funds provided pursuant to the City Loan were funded directly or indirectly with any obligation the interest on which is exempt from tax under Section 103 of the

Internal Revenue Code of 1986, as amended, or pursuant to any United States government federal source.

2. This Note is payable at the principal office of the City, 1500 Warburton Avenue, Santa Clara, California 95050, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

3. This Note shall be secured by the City Deed of Trust.

4. This Note shall bear simple interest at the rate of [0 to 3% per annum, percent to be determined by financial feasibility and approved by City Housing Division], which shall begin to accrue upon disbursement. Upon and during the occurrence of an event of default (after the expiration of all applicable notice, cure and grace periods) under the City Loan Documents, the monetary obligations under the City Loan Documents shall bear interest at the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

5. Except as described in Sections 6 and 7 hereof, no payments shall be due and payable under this Note.

6. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be due and payable upon the expiration of the Term hereof, or immediately upon the occurrence of either of the following:

(a) if the Property or any portion thereof or interest therein is sold, transferred, assigned or refinanced, without the prior written approval of the City, except as otherwise permitted in this Note or the City Loan Agreement; or

(b) if there is an event of default by the Borrower under the terms of this Note or any of the City Loan Documents, the Lease, or any deed of trust or other instrument securing the Senior Loan or other obligations secured by a deed of trust on the Property, which is not cured within the respective time period provided herein and therein.

7. Prior to the expiration of the Term hereof, Borrower shall be obligated to repay the City Loan as follows:

(a) Beginning on the date of Conversion, principal and/or interest will only be payable to the extent of available Residual Receipts. For any year that it is determined that there are available Residual Receipts, the City will be paid an amount equal to the City's Proportionate Share of Soft Lender's Share of Residual Receipts for such fiscal year. No later than December 1st of each year, Borrower will provide to the City a projected budget for the following calendar year, which shall include an estimate of Residual Receipts. No later than April 1st of each year, Borrower will provide to the City Borrower's calculation of Residual Receipts for the previous calendar year, accompanied by such supporting documentation as City may reasonably request, including without limitation an independent audit prepared for the Project by a certified public accountant. Notwithstanding the preceding sentence, the Borrower shall have an additional 30 days, until May 1st, to provide the City all required materials for the Residual Receipts calculation for the first such required submittal. Commencing on June 1st of the first year for which there are available Residual Receipts, and each anniversary thereafter until the Due Date, Borrower will

make annual payments to City in an amount equal to City's Proportionate Share of Soft Lenders' Share of Residual Receipts of the Project for the calendar year most recently ended. While these dates are absolute, City staff in their sole discretion may adjust these dates annually on a case by case basis provided the Borrower has submitted a written request prior to the April 1st deadline and City staff has provided a one-time waiver in writing prior to June 1st.

(b) All payments to City shall be applied first to the payment of all expenses, charges, costs and fees incurred by or payable to City by Borrower pursuant to the terms of the City Loan Documents (in such order and manner as City, in its sole discretion, may elect), then to the payment of all interest accrued to the date of such payment, and then to reduce the principal amount owed. All prepayment of principal on this Note shall be applied to the most remote principal installment or installments until paid. Notwithstanding anything to the contrary contained herein, after the occurrence and during the continuation of a default under the City Deed of Trust (after expiration of all applicable notice and cure periods), all amounts received by City from any party shall be applied in such order as City, in its sole discretion, may elect.

8. All payments to the City shall be applied first to interest, then to reduce the principal amount owed.

9. Prior to the repayment in full of the City Loan, the Borrower shall not assign or attempt to assign the City Loan Agreement or any right therein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, except as permitted in the City Loan Agreement.

10. Subject to the provisions and limitations of this Section 10, the obligation to repay the City Loan is a nonrecourse obligation of the Borrower. Neither Borrower nor any general partner of Borrower shall have any personal liability for repayment of the City Loan, except as provided in this Section 10. The sole recourse of City against Borrower or any general partner shall be the exercise of its rights against the Property and any related security for the City Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by this Note or any of the City Loan Documents; (b) limit the right of the City to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the City Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (c) release or impair this Note or any of the City Loan Documents; (d) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to City; or (g) affect in any way the validity of any guarantee or indemnity from any person other than the Borrower of all or any of the obligations evidenced and secured by this Note or any of the City Loan Documents. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of an event of default after expiration of all applicable cure period, Borrower shall have personal liability hereunder for any deficiency judgment, but only if and to

the extent Borrower, its principals, shareholders, partners received rentals, other revenues, or other payments or proceeds in respect of the Property after the occurrence of such event of default after expiration of all applicable cure periods, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the Property, ordinary and reasonable capital improvements to the Property, debt service, real estate taxes in respect of the Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Borrower in connection with the operation of the Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, City may recover directly from Borrower or from any other party:

(A) any damages, costs and expenses incurred by City as a result of fraud or any criminal act or acts of Borrower or any general partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general or limited partner of such member or general partner;

(B) any damages, costs and expenses incurred by City as a result of any misappropriation of rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds by Borrower or any of its partners;

(C) any and all amounts owing by Developer pursuant to the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity; and

(D) all court costs and reasonable attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that City shall pay Borrower's reasonable court costs and attorneys' fees if Borrower is the prevailing party in any such enforcement or collection action).

11. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the holder hereof, in the enforcement of this Note, any of the City Loan Documents, or any term or provision of either thereof.

12. Upon any event of default under the terms of this Note or any of the City Loan Documents, or any deed of trust securing a Senior Loan or other obligations secured by a deed of trust on the Property and after expiration of the applicable cure period, the holder may exercise its rights or remedies hereunder or thereunder.

13. (a) Subject to the extensions of time set forth in Section 14, and subject to the further provisions of this Section 14, failure or delay by Borrower to perform any material team or provision of this Note or any of the City Loan Documents, constitutes a default under this Note.

(b) City shall give written notice of default to Borrower, specifying the default complained of by the City. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by City in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by City in asserting any of its rights and remedies shall not deprive City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of this Note or any of the City Loan Documents, prior to exercising any remedies hereunder or thereunder City shall give Borrower and each of the general and limited partners of Borrower's partnership, as identified in Borrower's partnership agreement, simultaneous written notice of such default. Borrower shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by City under this Note and/or the City Loan Documents. In no event shall City be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of any of the City Loan Documents, prior to exercising any remedies hereunder or thereunder, City shall give Borrower and each of the general and limited partners of Borrower's partnership, as identified in Borrower's partnership agreement, simultaneous notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Borrower shall have such period to effect a cure prior to exercise of remedies by the City under the City Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by City.

(f) If Borrower fails to take corrective action or to cure the default within a reasonable time, City shall give Borrower and each of the general and limited partners of Borrower's partnership written notice thereof, whereupon the limited partner, subject to the terms of the Borrower's partnership agreement, may remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. The City agrees to accept cures tendered by any Senior Lender or the limited partner within the time period provided herein. Additionally, in the event the Senior Lender or limited partner is precluded from curing a non-monetary default due to an inability to remove the general partner as a result of a bankruptcy, injunction, or similar proceeding by or against the Borrower or its general partner, City agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Senior Lender or limited partner is so precluded from acting, not to exceed ninety (90) days, provided such Senior Lender and limited partner are otherwise in compliance with the foregoing provisions. In no event shall City be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the notice of default is received or deemed received.

(g) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice

of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Borrower to the address set forth in the Loan Agreement; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof Notices to the limited partner shall be sent to the following address:

[Investor Limited Partner]

14. Notwithstanding specific provisions of this Note, Borrower shall not be deemed to be in default for failure to perform any non-monetary performance hereunder where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the City or any other public or governmental authority or entity, or any causes beyond the control or without the fault of the Borrower. An extension of time for any such cause (a "**Force Majeure Delay**") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by Borrower is sent to the City within thirty (30) days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the Borrower delivers to the City written notice describing the event, its cause, when and how Borrower obtained knowledge, the date and the event commenced, and the estimated delay resulting therefrom. Borrower shall deliver such written notice within thirty (30) days after it obtains actual knowledge of the event. Times of performance under this Note may also be extended in writing by the City and Borrower.

15. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

16. The City Deed of Trust securing this Note and all other City Loan Documents have been made subordinate and junior to the Senior Loans as provided in the City Loan Agreement.

17. City agrees that the lien of the City Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "**Extended Use Agreement**") recorded against the Project; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under the City Deed of Trust or upon a transfer of the Project by instrument in lieu of foreclosure or comparable conversion of the loan, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code. The following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986, as amended, shall also apply: for a period of three (3) years from the date of foreclosure, with respect to any unit that had been regulated by the Extended Use Agreement, (i) none of the tenants occupying those units at the time of foreclosure may be evicted or their tenancy terminated (other than for good cause), (ii) nor may any rent be increased except as otherwise permitted under Section 42 of the Code. Borrower acknowledges and agrees that any default, event of default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an event

of default under this Note and the City Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees incurred by City as a result of an event of default by Borrower, and any amounts paid by City to cure any default under the Extended Use Agreement shall be an obligation of Borrower and become a part of the debt evidenced by this Note and secured by the City Deed of Trust.

18. In any approval, consent or other determination by City required under this Note or any of the other City Loan Documents, City shall act reasonably and in good faith.

19. Borrower shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty or premium.

20. Notices hereunder shall be given as provided in the City Loan Agreement.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year set forth above.

BORROWER:

Monroe Street Housing Partners, L.P.,
a California limited partnership

By: Housing Choices Coalition For Persons With Developmental Disabilities, Inc.,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Name: _____
Title: _____

By: Freebird Development Company, LLC,
a California limited liability company,
its administrative general partner

By: _____
Robin Zimbler, Manager

PROMISSORY NOTE
(this "**Note**")

Santa Clara, California
$5,200,000 [_] 1, 202[_]

FOR VALUE RECEIVED, **MONROE STREET HOUSING PARTNERS, L.P.,** , a California limited partnership ("**Borrower**"), hereby promises to pay to the CITY OF SANTA CLARA ("**City**"), a public body, corporate and politic, or order, a principal amount of $5,200,000 (the "**Seller Loan**"). The Borrower shall pay interest at the rate, in the amount and at the time hereinafter provided.

Definitions. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement of even date herewith between City and Borrower with respect to a loan in the principal amount of $6,500,000 (the "**City Loan Agreement**"). In addition, the following terms shall have the following meanings:

"**Annual Financial Statement**" shall mean the annual audited financial statement of Revenue and Operating Expenses and balance sheet for the Improvements, prepared at the Borrower's expense, by an independent certified public accountant reasonably acceptable to the City, which shall form the basis for determining the Residual Receipts.

"**City's Proportionate Share**" shall mean the City's pro-rata share of the total original outstanding principal amount due under the following approved loans, which is [_]%, so long as such loans are outstanding at the time of determination of City's Proportionate Share: (a) Seller Loan: $5,200,000; (b) County Loan: $3,200,000; (c) City Loan: $6,500,000; (d) [HCD loan, etc.].

"**Operating Expenses**" shall mean all reasonable and actual costs and expenses of operating, managing and maintaining the Project including without limitation: *[Fee amount will tie to permitted fees under other soft loans/HCD; final terms to be determined and approved by City Housing Division]*

1. debt service, reserves and other payments currently due or payable on a non-optional basis on any Senior Loan, the Monitoring Fee and any administrative fee payable pursuant to the County.

2. payments for supportive services to Project residents, including without limitation the salary of on-site service coordinators and supervision of such service staff and any other costs related to any services required by any regulatory agreement or similar document or as approved by the City;

3. payments for property management staffing, including without limitation the salary of on-site property managers and supervision of such managers and any other costs related to any property management function required by any regulatory agreement or similar document or as approved by the City;

4. Property management, service management, and accounting and administration fees, and reimbursements in amounts in accordance with industry standards for similar developments, which shall not include tax credit shortfall payments or similar payments or indemnities in favor of the limited partner(s) of Borrower;

5. deposits to operating, replacement reserve, or any other reserve accounts which are either (i) commercially reasonable, or (ii) required by any Senior Lender or as required under the Limited Partnership Agreement;

6. costs of restoring the Project after damage, destruction or condemnation;

7. Project organizational costs (e.g., annual franchise tax payments) and direct costs associated with accounting, tax preparation and legal fees of Borrower incurred in the ordinary course of business;

8. any extraordinary costs or expenses approved by City;

9. maintenance and repair including but not limited to pest control, landscaping and grounds maintenance, painting, and decorating, cleaning, common systems repairs, general repairs, janitorial supplies, and others, and costs of restoring the Project after damage, destruction or condemnation;

10. Project real estate taxes (if property tax welfare exemption become ineligible) and other taxes, assessments and impositions that are not exempt under the welfare exemption;

11. Payment of any previously unpaid portion of the Developer Fee for the Project;

12. general administrative expenses including but not limited to advertising, marketing, security services and systems, professional fees for legal, audit, accounting and tax returns, and other;

13. current and accrued partnership management fee with annual earnings in the amount of $[_] increasing by [_]% annually, and current and accrued limited partner investor services fee with annual earnings in the amount of $[_] increasing by [_]% annually, beginning the first calendar year the Project receives rental income; repayment of any limited partner loans and general partner operating deficit loans pursuant to the Limited Partnership Agreement, any advances by partners required under the Limited Partnership Agreement, if applicable, of Borrower and any fees to partners required under the Partnership Agreement; tax credit adjustor payments, taxes owed on taxable income allocated to the limited partner, replenishing of the Operating Reserve as required pursuant to the Limited Partnership Agreement;

14. Tenant resident services in the annual amount of $[_] and increasing by no more than [_]% each calendar year, or as otherwise amended in writing;

15. utility services not paid for directly by the tenants, including but not limited to water, sewer, trash collection, gas and electricity; and

16. Premiums for property damage and liability insurance.

"**Residual Receipts**" shall mean (a) the Revenue minus (b) the Operating Expenses. All calculations of Residual Receipts shall be subject to verification and reasonable approval by the City.

"**Revenue**" shall mean all income derived from the Project (excluding loan proceeds, insurance proceeds (except those for loss of business), capital contributions, tenant security deposits, and any interest earned on said deposit, and includes, without limitation:

1. All rents (including rent on commercial or common space within the Project) and rent subsidies, if any;

2. interest on reserves, unless such interest remains in the applicable reserve account;

3. receipts from laundry, parking, or other services for which a fee is charged; and

4. insurance proceeds or condemnation awards actually received by Borrower after casualty to or condemnation of the Project; provided, however, Borrower shall not be deemed to have "received' (nor shall Operating Revenues include) all or any portion of insurance proceeds or condemnation award that is applied by a senior lender of Sources of Funding towards payment of costs and expenses or in payment of outstanding principal, interest, and/or charges under the senior lender's loan or deed of trust securing the loan.

"**Soft Lenders' Share of Residual Receipts**" is defined as fifty percent (50%) of Residual Receipts.

"**Term**" of this Note shall mean fifty-five (55) years from Conversion.

1. This Note evidences the obligation of the Borrower to the City for the repayment of the Seller Loan. None of the funds provided pursuant to the Seller Loan were funded directly or indirectly with any obligation the interest on which is exempt from tax under Section 103 of the Internal Revenue Code of 1986, as amended, or pursuant to any United States government federal source.

2. This Note is payable at the principal office of the City, 1500 Warburton Avenue, Santa Clara, California 95050, or at such other place as the holder hereof may inform the Borrower in writing, in lawful money of the United States.

3. This Note shall be secured by the Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (the "**Seller Deed of Trust**") and the Assignment of Rents and Leases (the "**Seller Assignment of Rents and Leases**"; together with this Note and the Seller Deed of Trust, the "**Seller Loan Documents**") made by Borrower in favor of City and recorded against the Project.

4. This Note shall not bear interest. Upon and during the occurrence of an event of default (after the expiration of all applicable notice, cure and grace periods) under the Seller Loan Documents, the monetary obligations under the Seller Loan Documents shall bear interest at the lesser of ten percent (10%), compounded annually, or the highest rate permitted by law.

5. Except as described in Sections 6 and 7 hereof, no payments shall be due and payable under this Note.

6. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be due and payable upon the expiration of the Term hereof, or immediately upon the occurrence of either of the following:

(a) if the Property or any portion thereof or interest therein is sold, transferred, assigned or refinanced, without the prior written approval of the City, except as otherwise permitted in the Seller Loan Documents or the City Loan Agreement; or

(b) if there is an event of default by the Borrower under the terms of this Note or any of the Seller Loan Documents, the Lease, or any deed of trust or other instrument securing the Senior Loan or other obligations secured by a deed of trust on the Property, which is not cured within the respective time period provided herein and therein.

7. Prior to the expiration of the Term hereof, Borrower shall be obligated to repay the Seller Loan as follows:

(a) Beginning on the date of Conversion, principal and/or interest will only be payable to the extent of available Residual Receipts. For any year that it is determined that there are available Residual Receipts, the City will be paid an amount equal to the City's Proportionate Share of Soft Lender's Share of Residual Receipts for such fiscal year. No later than December 1st of each year, Borrower will provide to the City a projected budget for the following calendar year, which shall include an estimate of Residual Receipts. No later than April 1st of each year, Borrower will provide to the City Borrower's calculation of Residual Receipts for the previous calendar year, accompanied by such supporting documentation as City may reasonably request, including without limitation an independent audit prepared for the Project by a certified public accountant. Notwithstanding the preceding sentence, the Borrower shall have an additional 30 days, until May 1st, to provide the City all required materials for the Residual Receipts calculation for the first such required submittal. Commencing on June 1st of the first year for which there are available Residual Receipts, and each anniversary thereafter until the Due Date, Borrower will make annual payments to City in an amount equal to City's Proportionate Share of Soft Lenders' Share of Residual Receipts of the Project for the calendar year most recently ended. While these dates are absolute, City staff in their sole discretion may adjust these dates annually on a case by

case basis provided the Borrower has submitted a written request prior to the April 1st deadline and City staff has provided a one-time waiver in writing prior to June 1st.

(b) All payments to City shall be applied first to the payment of all expenses, charges, costs and fees incurred by or payable to City by Borrower pursuant to the terms of the Seller Loan Documents (in such order and manner as City, in its sole discretion, may elect), then to the payment of all interest accrued to the date of such payment, and then to reduce the principal amount owed. All prepayment of principal on this Note shall be applied to the most remote principal installment or installments until paid. Notwithstanding anything to the contrary contained herein, after the occurrence and during the continuation of a default under the City Deed of Trust (after expiration of all applicable notice and cure periods), all amounts received by City from any party shall be applied in such order as City, in its sole discretion, may elect.

8. All payments to the City shall be applied first to interest, then to reduce the principal amount owed.

9. Prior to the repayment in full of the Seller Loan, the Borrower shall not assign or attempt to assign the Seller Loan Documents or any right therein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, except as permitted in the Seller Loan Documents.

10. Subject to the provisions and limitations of this Section 10, the obligation to repay the Seller Loan is a nonrecourse obligation of the Borrower. Neither Borrower nor any general partner of Borrower shall have any personal liability for repayment of the Seller Loan, except as provided in this Section 10. The sole recourse of City against Borrower or any general partner shall be the exercise of its rights against the Property and any related security for the Seller Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by this Note or any of the Seller Loan Documents; (b) limit the right of the City to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Note and the City Deed of Trust or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Borrower; (c) release or impair this Note or any of the Seller Loan Documents; (d) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing this Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing this Note; (f) relieve Borrower of any of its obligations under any indemnity delivered by Borrower to City; or (g) affect in any way the validity of any guarantee or indemnity from any person other than the Borrower of all or any of the obligations evidenced and secured by this Note or any of the Seller Loan Documents. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of an event of default after expiration of all applicable cure period, Borrower shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Borrower, its principals, shareholders, partners received rentals, other revenues, or other payments or proceeds in respect of the Property after the occurrence of such event of default after expiration of all applicable cure periods, which rentals, other revenues, or other payments or

proceeds have not been used for the payment of ordinary and reasonable operating expenses of the Property, ordinary and reasonable capital improvements to the Property, debt service, real estate taxes in respect of the Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Borrower in connection with the operation of the Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, City may recover directly from Borrower or from any other party:

(A) any damages, costs and expenses incurred by City as a result of fraud or any criminal act or acts of Borrower or any general partner, shareholder, officer, director or employee of Borrower, or of any member or general partner of Borrower, or of any general or limited partner of such member or general partner;

(B) any damages, costs and expenses incurred by City as a result of any misappropriation of rents and revenues from the operation of the Project, or proceeds of insurance policies or condemnation proceeds by Borrower or any of its partners;

(C) any and all amounts owing by Developer pursuant to the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity; and

(D) all court costs and reasonable attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that City shall pay Borrower's reasonable court costs and attorneys' fees if Borrower is the prevailing party in any such enforcement or collection action).

11. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the holder hereof, in the enforcement of this Note, any of the Seller Loan Documents, or any term or provision of either thereof.

12. Upon any event of default under the terms of this Note or any of the Seller Loan Documents, or any deed of trust securing a Senior Loan or other obligations secured by a deed of trust on the Property and after expiration of the applicable cure period, the holder may exercise its rights or remedies hereunder or thereunder.

13. (a) Subject to the extensions of time set forth in Section 14, and subject to the further provisions of this Section 14, failure or delay by Borrower to perform any material team or provision of this Note or any of the Seller Loan Documents, constitutes a default under this Note.

(b) City shall give written notice of default to Borrower, specifying the default complained of by the City. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by City in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by City in asserting any of its rights and remedies shall not deprive City of its right to institute and

maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of this Note or any of the Seller Loan Documents, prior to exercising any remedies hereunder or thereunder City shall give Borrower and each of the general and limited partners of Borrower's partnership, as identified in Borrower's partnership agreement, simultaneous written notice of such default. Borrower shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by City under this Note and/or the Seller Loan Documents. In no event shall City be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of any of the Seller Loan Documents, prior to exercising any remedies hereunder or thereunder, City shall give Borrower and each of the general and limited partners of Borrower's partnership, as identified in Borrower's partnership agreement, simultaneous notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Borrower shall have such period to effect a cure prior to exercise of remedies by the City under the Seller Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Borrower (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by City.

(f) If Borrower fails to take corrective action or to cure the default within a reasonable time, City shall give Borrower and each of the general and limited partners of Borrower's partnership written notice thereof, whereupon the limited partner, subject to the terms of the Borrower's partnership agreement, may remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. The City agrees to accept cures tendered by any Senior Lender or the limited partner within the time period provided herein. Additionally, in the event the Senior Lender or limited partner is precluded from curing a non-monetary default due to an inability to remove the general partner as a result of a bankruptcy, injunction, or similar proceeding by or against the Borrower or its general partner, City agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Senior Lender or limited partner is so precluded from acting, not to exceed ninety (90) days, provided such Senior Lender and limited partner are otherwise in compliance with the foregoing provisions. In no event shall City be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the notice of default is received or deemed received.

(g) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Borrower to the address set forth in the

Loan Agreement; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof Notices to the limited partner shall be sent to the following address:

[Investor Limited Partner]

14. Notwithstanding specific provisions of this Note, Borrower shall not be deemed to be in default for failure to perform any non-monetary performance hereunder where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the City or any other public or governmental authority or entity, or any causes beyond the control or without the fault of the Borrower. An extension of time for any such cause (a "**Force Majeure Delay**") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by Borrower is sent to the City within thirty (30) days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the Borrower delivers to the City written notice describing the event, its cause, when and how Borrower obtained knowledge, the date and the event commenced, and the estimated delay resulting therefrom. Borrower shall deliver such written notice within thirty (30) days after it obtains actual knowledge of the event. Times of performance under this Note may also be extended in writing by the City and Borrower.

15. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

16. The City Deed of Trust securing this Note and all other Seller Loan Documents have been made subordinate and junior to the Senior Loans as provided in the Seller Loan Documents.

17. City agrees that the lien of the City Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "**Extended Use Agreement**") recorded against the Project; provided that such Extended Use Agreement, by its terms, must terminate upon foreclosure under the City Deed of Trust or upon a transfer of the Project by instrument in lieu of foreclosure or comparable conversion of the loan, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code. The following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986, as amended, shall also apply: for a period of three (3) years from the date of foreclosure, with respect to any unit that had been regulated by the Extended Use Agreement, (i) none of the tenants occupying those units at the time of foreclosure may be evicted or their tenancy terminated (other than for good cause), (ii) nor may any rent be increased except as otherwise permitted under Section 42 of the Code. Borrower acknowledges and agrees that any default, event of default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an event of default under this Note and the City Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees incurred by City as a result of an event of default by Borrower,

and any amounts paid by City to cure any default under the Extended Use Agreement shall be an obligation of Borrower and become a part of the debt evidenced by this Note and secured by the City Deed of Trust.

18. In any approval, consent or other determination by City required under this Note or any of the other Seller Loan Documents, City shall act reasonably and in good faith.

19. Borrower shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty or premium.

20. Notices hereunder shall be given as provided in the City Loan Agreement.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, Borrower has executed this Note as of the day and year set forth above.

BORROWER:

Monroe Street Housing Partners, L.P.,
a California limited partnership

By: Housing Choices Coalition For Persons With Developmental Disabilities, Inc.,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Name: _____
Title: _____

By: Freebird Development Company, LLC,
a California limited liability company,
its administrative general partner

By: _____
Robin Zimbler, Manager

Recording Requested by and
When Recorded Mail to:

CITY OF SANTA CLARA
Office of the City Clerk
1500 Warburton Avenue
Santa Clara, California 95050

SPACE ABOVE THIS LINE FOR RECORDER'S USE

OFFICIAL BUSINESS
Document entitled to free
recording per Government
Code Section 27383

**SUBORDINATED LEASEHOLD DEED OF TRUST,
SECURITY AGREEMENT AND FIXTURE FILING
(WITH ASSIGNMENT OF RENTS)**

This Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) (this "**Deed of Trust**") is made as of [_] 1, 202[_] by Monroe Street Housing Partners, L.P., a California limited partnership ("**Trustor**"), whose address is 1111 Broadway, Suite 300, Oakland, CA 94607, to Old Republic Title Company ("**Trustee**"), for the benefit of the CITY OF SANTA CLARA, a public body, corporate and politic ("**Beneficiary**"), whose address is 1500 Warburton Avenue, Santa Clara, California 95050.

WITNESSETH: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust for the benefit of Beneficiary, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION, all of Trustor's title and interest in the following property (the "**Trust Estate**"):

(a) That certain real property in the City of Santa Clara, County of Santa Clara, State of California more particularly described in Exhibit A attached hereto and by this reference made a part hereof (hereinafter referred to as the "**Subject Property**");

(b) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property (the "**Improvements**");

(c) all tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefitting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the "**Appurtenances**"). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the "**Real Property**");

(d) subject to the assignment to Beneficiary set forth in Paragraph 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or

otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the "**Rents**");

(e) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the "**UCC**"), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the "**Goods**," and together with the Real Property, the "**Property**"); and

(f) all present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types on intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the "**Intangibles**").

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the "**Personal Property**"). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the

rights and remedies of a "secured party" under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may elect, the following:

(1) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:

(a) a promissory note in the original principal amount of $5,200,000, executed by Trustor ("**Borrower**" therein) of even date herewith (the "**Seller Note**");

(b) the Seller Loan Documents, as defined in the Seller Note; and

(2) payment of indebtedness of the Trustor to the Beneficiary in the principal sum of $5,200,000 ("**Seller Loan**") or so much thereof as shall be advanced, evidenced by the Seller Note secured hereby, with interest, according to the terms of the Seller Note secured hereby.

The Seller Loan Documents (collectively referred to as the "**Secured Obligations**") and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any note reciting that it is secured hereby. Any capitalized term that is not otherwise defined in this Deed of Trust shall have the meaning ascribed to such term in the Seller Note.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall pay the Seller Note secured hereby at the time and in the manner provided therein, and perform the obligations of the Trustor as set forth in the Secured Obligations at the time and in the manner respectively provided therein;

2. That Trustor shall not permit or suffer the use of any of the Trust Estate for any purpose other than the uses permitted by the Covenants;

3. Upon an event of default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;

4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the City Loan Agreement;

5. That upon an event of default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;

6. That Trustor will keep the Improvements insured against loss by fire and such other hazards, casualties, and contingencies as described in the City Loan Agreement;

7. To pay, at least 10 days before delinquency, any taxes and assessments affecting said Property; to pay, when due, all encumbrances, charges and liens, with interest, on said Property or any part thereof which appear to be prior or superior hereto; and to pay all costs, fees, and expenses of this Trust. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as Trustor is contesting the legality thereof in good faith and by appropriate proceedings, and Trustor has adequate funds to pay any liabilities contested pursuant to this Section 7;

8. To keep said property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon without the consent of Beneficiary; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations); not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law and/or covenants, conditions and/or restrictions affecting said property; not to permit or suffer any material alteration of or addition to the buildings or improvements upon said property without the consent of the Beneficiary;

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear;

10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay his reasonable fees. Notwithstanding the foregoing, in the event of default under this Deed of Trust, the Beneficiary may also require Trustor

to maintain and submit additional records. Beneficiary shall specify in writing the particular records that must be maintained and the information or reports that must be submitted;

11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the principal sum secured hereby;

12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure at the rate specified in the Seller Note secured hereby;

13. That the funds to be advanced hereunder are to be used in accordance with the Secured Obligations and upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions, and agreements of said agreements, the principal sum and all arrears of interest, and other charges provided for in the Seller Note secured hereby shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding;

14. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the property subject to this Deed of Trust any lien or liens except as permitted by the Secured Obligations or otherwise approved by Beneficiary, and further that it will keep and maintain the property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that Trustor shall, at Beneficiary's written request, within thirty (30) days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Recorder of Santa Clara County, a surety bond in an amount one-and-one-half (1 1/2) times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary;

15. That any and all improvements made or about to be made upon the premises covered by this Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office;

16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of the Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the Property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other

manner, subject to the rights of each Senior Lender, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. Subject to the rights of the Senior Lenders, all such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorney's fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, shall be applied to the amount due under the Seller Note secured hereby. No amount applied to the reduction of the principal shall relieve the Trustor from making payments as required by the Seller Note secured hereby.

18. Upon an event of default by Trustor in making any payments provided for in the Seller Note secured hereby or in this Deed of Trust, or in performing any obligation set forth in any of the Secured Obligations, and if such default is not cured within the respective time provided therefor in Section 34 of this Deed of Trust, below, or the other Secured Obligations, whichever is longer, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Authority Note and all documents evidencing expenditures secured hereby. Any cure made or tendered by the Investor Limited Partner shall be deemed a cure by the Trustor and shall be accepted or rejected on the same basis as if made by Trustor.

19. (a) Prior to the repayment in full of the Seller Loan, except as provided in the City Loan Agreement, the Trustor shall not assign or attempt to assign the Seller Loan or any right therein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property, the improvements thereon, or any portion thereof or interest therein (referred to hereinafter as a "**Transfer**"), without prior written approval of the Beneficiary. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. Beneficiary shall not unreasonably withhold or delay its consent. If consent should be given, any such transfer shall be subject to this Section 19, and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein.

(b) Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by the Beneficiary, to fulfill the obligations undertaken by Trustor in the Seller Loan Documents. Any such proposed transferee, by instrument in writing satisfactory to the Beneficiary and in form recordable among the land records of Santa Clara County, for itself and its successors and assigns, and for the benefit of the Beneficiary shall expressly assume all of the obligations of the Trustor under the Seller Loan Documents, and agree to be subject to all conditions and restrictions applicable to the Trustor in this Deed of Trust. There shall be submitted to the Beneficiary for review all instruments and

other legal documents proposed to effect any such transfer; and if approved by the Beneficiary its approval shall be indicated to the Trustor in writing.

(c) In the absence of specific written agreement by the Beneficiary, no unauthorized Transfer, or approval thereof by the Beneficiary, shall be deemed to relieve the Trustor or any other party from any obligations under the Seller Loan Documents.

(d) Except for Permitted Transfers as described in the City Loan Agreement, in the event of a Transfer prior to the time the Seller Loan is paid in full without the prior written consent of the Beneficiary, the remaining principal balance of the Seller Loan and all accrued but unpaid interest shall be immediately due and payable.

(e) (i) As used herein, "Transfer" includes the sale, transfer or conveyance of the Property, the Improvements, or any portion thereof or interest therein, whether voluntary, involuntary, by operation of law or otherwise, or any agreement to do so; the execution of any installment land sale contract or similar instrument affecting all or a portion of the Property or the Improvements; or the lease of all or substantially all of the Property or Improvements.

(ii) "Transfer" shall also include the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of any interest in Trustor, or any conversion of Trustor to an entity form other than that of Trustor at the time of execution of this Deed of Trust, except for the following: (A) a cumulative change in the ownership interests of any individual limited liability company member of forty-nine percent (49%) or less shall not be deemed a "Transfer" for purposes of this Deed of Trust; and (B) a transfer of a portion or a majority of stock of any corporation to a trust formed in connection with a qualified employee ownership plan shall not, by itself, be deemed to constitute a change in ownership for purposes of this Deed of Trust.

(iii) "Transfer" shall also include the transfer, assignment, hypothecation or conveyance of any general partner interest in Trustor if Trustor is a partnership

(iv) Notwithstanding anything to the contrary herein, a "Transfer" shall not include any "Permitted Transfer" as defined in the City Loan Agreement.

(f) The Beneficiary shall not unreasonably withhold, condition or delay its approval of any matter for which its approval is required hereunder. Any disapproval shall be in writing and contain the Beneficiary's reasons for disapproval.

20. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be

conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this trust including therein reasonable Trustee's fees or attorney's fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the Seller Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.

21. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

22. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

23. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the Seller Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

24. The trust created hereby is irrevocable by Trustor.

25. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the Seller Note secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.

26. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

27. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the following addresses:

Monroe Street Housing Partners, L.P.
c/o Freebird Development Company, LLC
1111 Broadway, Suite 300
Oakland, CA 94607
Attention: Robin Zimbler

With a copy to:

Monroe Street Housing Partners, L.P.
c/o Housing Choices Coalition For Persons With Developmental Disabilities, Inc.
6203 San Ignacio Ave, Suite 108
San Jose CA 95119
Attention: President

With a copy to:

Gubb and Barshay LLP
505 14th Street, Suite 450
Oakland, CA 94612
Attn: Evan A. Gross

With a copy to:

[LP]

28. Trustor agrees that, except as otherwise provided in the Seller Note secured hereby, upon sale or refinancing of the property, the entire principal balance of the debt secured by this Deed of Trust, plus any accrued but unpaid interest thereon, shall at the option of Beneficiary be immediately due and payable.

29. Subject to the provisions and limitations of this Section 29, the obligation to repay the Seller Loan is a nonrecourse obligation of the Trustor. Neither Trustor nor any partner of Trustor shall have personal liability for repayment of the Seller Loan, except as provided in this Section 29. The sole recourse of Beneficiary shall be the exercise of its rights against the Property and any related security for the Seller Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by the Seller Note or this Deed of Trust; (b) limit the right of the Beneficiary to name Trustor as a party defendant in any action or suit for judicial foreclosure and sale under this Deed of Trust and the Seller Note or any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against Trustor; (c) release or impair the Seller Note or this Deed of Trust; (d) prevent or in any way hinder Beneficiary from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy against the mortgaged Property or any other instrument securing the Seller Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder Authority from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Seller Note; (f) relieve Borrower of any

of its obligations under any indemnity delivered by Borrower to Authority; or (g) affect in any way the validity of any guarantee or indemnity from any person of all or any of the obligations evidenced and secured by the Seller Note and this Deed of Trust. The foregoing provisions of this paragraph are limited by the provision that in the event of the occurrence of an event of default, Trustor shall have personal liability hereunder for any deficiency judgment, but only if and to the extent Trustor, its principals, shareholders, partners or received rentals, other revenues, or other payments or proceeds in respect of the mortgaged Property after the occurrence of such default, which rentals, other revenues, or other payments or proceeds have not been used for the payment of ordinary and reasonable operating expenses of the Property, ordinary and reasonable capital improvements to the Property, debt service, real estate taxes in respect of the Property and basic management fees, but not incentive fees, payable to an entity or person unaffiliated with Trustor in connection with the operation of the Property, which are then due and payable. Notwithstanding the first sentence of this paragraph, Beneficiary may recover directly from Trustor or from any other party:

(A) any damages, costs and expenses incurred by Beneficiary as a result of fraud or any criminal act or acts of Trustor or any general partner, shareholder, officer, director or employee of Trustor, or of any general or limited partner of such member or general partner;

(B) any damages, costs and expenses incurred by Beneficiary as a result of any misappropriation of funds provided for construction of the Improvements, rents and revenues from operation of the Improvements or proceeds of insurance policies or condemnation proceeds;

(C) any and all amounts owing by Trustor pursuant to the indemnification regarding Hazardous Substances pursuant to the Environmental Indemnity; and

(D) all court costs and reasonable attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that Beneficiary shall pay Trustor's reasonable court costs and attorneys' fees if Trustor is the prevailing party in any such enforcement or collection action).

30. Notwithstanding specific provisions of this Deed of Trust, Trustor shall not be deemed to be in default for failure to perform any non-monetary performance hereunder where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the Beneficiary or any other public or governmental agency or entity, or any causes beyond the control or without the fault of the Trustor. An extension of time for any such cause (a "**Force Majeure Delay**") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by Trustor is sent to the Beneficiary within ten (10) days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the Trustor delivers to the Beneficiary written notice describing the event, its cause, when and how Trustor obtained knowledge, the date and the event commenced, and the estimated delay resulting therefrom. Trustor shall deliver such written notice within ten (10) days

after it obtains actual knowledge of the event. Times of performance under this Deed of Trust may also be extended in writing by the Beneficiary and Trustor.

31. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.

32. (a) Subject to the extensions of time set forth in Section 30, and subject to the further provisions of this Section 32, failure or delay by Trustor to perform any material term or provision of this Deed of Trust or any of the other Seller Loan Documents constitutes a default under this Deed of Trust.

(b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by the Beneficiary. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by Beneficiary in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of the Seller Loan Documents, or any deed of trust securing the Senior Loan or Permanent Loan prior to exercising any remedies hereunder or thereunder Beneficiary shall give Trustor written notice of such default. Trustor shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of remedies by Beneficiary under the Authority Note and/or this Deed of Trust. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of the Seller Loan Documents, prior to exercising any remedies hereunder or thereunder, Beneficiary shall give Trustor notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary under the Seller Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within sixty (60) days after the notice of default is first given.

(f) If Trustor fails to take corrective action or to cure the default within a reasonable time, Beneficiary shall give Trustor and each of the general and limited partners of Trustor's partnership written notice thereof, whereupon the limited partner, subject to the terms of the Trustor's partnership agreement, may remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable time thereafter in accordance with the foregoing provisions. The Beneficiary agrees to accept cures tendered by any Senior Lender or the limited partner within the time period provided herein. Additionally, in the event the Senior Lender or limited partner is precluded from curing a non-monetary default due to an inability to remove the general partner as a result of a bankruptcy, injunction, or similar proceeding by or against the Trustor or its general partner, Beneficiary agrees to forbear from completing a foreclosure (judicial or nonjudicial) during the period during which the Senior Lender or limited partner is so precluded from acting, not to exceed ninety (90) days, provided such Senior Lender and limited partner are otherwise in compliance with the foregoing provisions. In no event shall Beneficiary be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the notice of default is received or deemed received.

(g) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Trustor; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

33. This Deed of Trust securing the Seller Note and all other Seller Loan Documents have been made subordinate and junior to the claims, liens or charges of the Construction Loan deed of trust and all other instruments securing the Construction Loan by that certain Subordination Agreement by and among Beneficiary, Trustor and Construction Lender which is being recorded concurrently with the execution and delivery of this Deed of Trust and will also be subordinate and junior to the claims, liens or charges of the Permanent Loan deed of trust and all other instruments securing the Permanent Loan. This Deed of Trust shall also be subordinate and junior to the Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) made by Trustor in favor of Beneficiary and the Agreement Containing Covenants and Restrictions between Trustor and Beneficiary entered into in connection with a loan from Beneficiary to Trustor in the amount of $6,500,000.

34. This Deed of Trust shall be subordinate to any extended low-income housing commitment (as such term is defined in Section 42(h)(6)(B) of the Internal Revenue Code) (the "**Extended Use Agreement**") recorded against the Project; provided that such Extended Use Agreement, by its Willis, must terminate upon foreclosure under this Deed of Trust or upon a transfer of the Project by instrument in lieu of foreclosure or comparable conversion of the loan, in accordance with Section 42(h)(6)(E) of the Internal Revenue Code. The following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986, as amended, shall also apply: for a period of three (3) years from the date of foreclosure, with respect to any unit that had been regulated by the Extended Use Agreement, (i) none of the tenants occupying those units at the time of foreclosure may be evicted or their tenancy terminated (other than for good cause), (ii)

nor may any rent be increased except as otherwise permitted under Section 42 of the Code. Trustor acknowledges and agrees that any default, event of default, or breach (however such terms may be defined) under the Extended Use Agreement shall be an event of default under this Deed of Trust and that any costs, damages or other amounts, including reasonable attorneys' fees incurred by Beneficiary as a result of an event of default by Trustor, and any amounts paid by Beneficiary to cure any default under the Extended Use Agreement shall be an obligation of Trustor and become a part of the debt evidenced by the Seller Note and secured by this Deed of Trust.

35. Provisions Regarding Ground Lease. Trustor's interest in the Land is a leasehold interest under that certain Ground Lease between Trustor and the City of Santa Clara ("**Fee Owner**") (the "**Ground Lease**"). This Section 35 is subject to the rights of Senior Lenders.

(a) Representations and Warranties Regarding Ground Lease. Trustor hereby warrants and represents as follows: (i) The lessor's interest in the Ground Lease is now held by Fee Owner. (ii) The Ground Lease is in full force and effect, unmodified by any writing or otherwise (except as recited in the definitions section of this Deed of Trust). (iii) All rent, additional rent and other amounts to be paid by Trustor under the Ground Lease have been paid to the extent they are payable to the date of this Deed of Trust. (iv) Trustor enjoys the quiet and peaceful possession of the property demised under the Ground Lease. (v) Trustor is not in default under the Ground Lease and there is no event or condition which with notice and the expiration of any applicable cure period would be a default under the Ground Lease. (vi) Trustor has not received any notice from Fee Owner of any default that has not been timely cured. (vii) To the best of Trustor's knowledge, Fee Owner is not in default under the Ground Lease.

(b) Covenants Regarding Ground Lease. Trustor covenants and agrees as follows: (i) Trustor shall promptly and faithfully observe, perform and comply with all of the terms, covenants and provisions of the Ground Lease and to do all things necessary to preserve unimpaired its rights thereunder. (ii) Trustor shall not do, permit, suffer or refrain from doing anything, as a result of which, could give rise to any default under the Ground Lease. (iii) Trustor shall not exercise any right or option to cancel or otherwise terminate the Ground Lease. (iv) Trustor shall not cancel, surrender, modify, amend or in any way alter or permit the alteration of the Ground Lease and shall not release Fee Owner from any obligations imposed upon it under the Ground Lease. (v) Trustor shall give Beneficiary immediate written notice of any default by anyone under the Ground Lease and to immediately deliver to Beneficiary copies of each notice of default and copies of all other notices, communications, plans, specifications and other similar instruments received or delivered by Trustor in connection with such default notice. (vi) Trustor shall furnish to Beneficiary such information and evidence as Beneficiary may reasonably require concerning Trustor's due observance, performance and compliance with the terms, covenants and provisions of the Ground Lease.

(c) Default under Ground Lease. Any default by Trustor under the Ground Lease (taking into account any applicable notice and cure periods set forth therein) is an event of default under the Seller Loan Documents without the requirement of any notice under this Deed of Trust.

(d) Beneficiary's Rights to Cure Ground Lease Default. In the event of any default by Trustor under the Ground Lease, including, without limitation, any default in the

payment of rent or any other monetary obligation due from Trustor under the Ground Lease, and in addition to other rights and remedies of Beneficiary under this Deed of Trust and the other Seller Loan Documents, Beneficiary may, in each and every case and at its sole option and without notice, cause the default or defaults to be remedied and otherwise exercise any and all of the rights of Trustor thereunder in the name of and on behalf of the Trustor but no such action by Beneficiary shall release Trustor from any event of default under this Deed of Trust or the other Seller Loan Documents. Trustor shall, on demand, reimburse Beneficiary for all advances made and expenses incurred by Beneficiary in curing any such default (including, without limitation, attorneys' fees and disbursements), together with interest thereon at the default interest rate set forth in the Seller Note, from the date that an advance is made or expense is incurred, to and including the date Beneficiary is reimbursed such amount(s). All such amounts so expended by Beneficiary, with interest thereon, are secured by this Deed of Trust.

(e) New Lease. If the Ground Lease is canceled or terminated, and if Beneficiary or its nominee shall acquire an interest in any new lease of the property demised thereby, Trustor shall have no right, title or interest in or to any new lease with respect to the property demised thereby or the leasehold estate created by such new lease.

(f) Estoppel. Trustor shall use its diligent efforts to obtain and deliver to Beneficiary from time to time within twenty (20) days after written demand by Beneficiary, an estoppel certificate from Fee Owner, as requested by Beneficiary, setting forth (i) the name of Fee Owner under the Ground Lease, (ii) that the Ground Lease has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the basic rent and additional rent payable under the Ground Lease, (iv) the date to which all rental charges have been paid by Trustor under the Ground Lease, and (v) whether there are any alleged defaults of Trustor under the Ground Lease or if there are any events which have occurred which with notice, such passage of time or both, would constitute a default under the Ground Lease, and, if there are, setting forth the nature thereof in reasonable detail.

(g) No Liability of Beneficiary. Beneficiary shall have no liability or obligation under the Ground Lease by reason of its making of the Seller Loan or acceptance of the Seller Loan Documents. No release or forbearance of any of Trustor's obligations under the Ground Lease, pursuant to the Ground Lease or otherwise, shall release Trustor from any of its obligations under the Seller Loan Documents.

(h) Rights and Obligations under Ground Lease. Trustor shall enforce the obligations of Fee Owner under the Ground Lease to the end that Trustor may enjoy all of the rights granted to it under the Ground Lease and will immediately notify Beneficiary of any default by Fee Owner, or by Trustor as lessee, in the performance or observance of any of the terms, covenants and conditions on the part of such Fee Owner or Trustor, as the case may be, to be performed or observed under the Ground Lease. If Beneficiary receives a copy of any notice of default given by Fee Owner to Trustor, such notice shall constitute full authority and protection to Beneficiary for any action taken or omitted to be taken by Beneficiary hereunder, in good faith and in reliance thereon.

(i) Rejection in Bankruptcy. If the Ground Lease is rejected in any case, proceeding or other action commenced by or against Fee Owner under the Ground Lease (or any

person or party constituting or having an interest in the Ground Lease) under the Bankruptcy Code or any comparable federal or state statute or law, (i) Trustor, immediately after obtaining notice thereof, shall give notice thereof to Beneficiary, (ii) Trustor, without the prior written consent of Beneficiary, shall not elect to treat the Ground Lease as terminated pursuant to Section 365(h)(1)(A)(i) of the Bankruptcy Code or any comparable federal or state statute or law, and any election by Trustor made without such consent shall be void and (iii) this Deed of Trust and all the liens, terms, covenants and conditions hereof shall extend to and cover Trustor's possessory rights under Section 365(h) of the Bankruptcy Code and to any claim for damages due to Fee Owner's rejection of the Ground Lease. In addition, Trustor hereby assigns to Beneficiary all of Trustor's rights to remain in possession of the property demised under the Ground Lease and to offset rents under the Ground Lease under Section 365(h)(1)(A)(ii) of the Bankruptcy Code in the event any case, proceeding or other action is commenced by or against Fee Owner under the Ground Lease under the Bankruptcy Code or any comparable federal or state statute or law.

(j) Assignment of Rights in Bankruptcy. Trustor hereby assigns to Beneficiary the Trustor's right to seek an extension of the one hundred twenty (120) day period within which Trustor must accept or reject the Ground Lease under Section 365 of the Bankruptcy Code or any comparable federal or state statute or law with respect to any case, proceeding or other action commenced by or against Trustor under the Bankruptcy Code or comparable federal or state statute or law. Furthermore, if Trustor intends to reject the Ground Lease under the Bankruptcy Code or any comparable federal or state statute or law, then it shall so notify Beneficiary and, at Beneficiary's request, Trustor shall assign its interest in the Ground Lease to Beneficiary in lieu of rejecting the Ground Lease.

[Signatures appear on next page.]

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

TRUSTOR:

Monroe Street Housing Partners, L.P.,
a California limited partnership

By: Housing Choices Coalition For Persons With Developmental Disabilities, Inc.,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Name: _____
Title: _____

By: Freebird Development Company, LLC,
a California limited liability company,
its administrative general partner

By: _____
Robin Zimbler, Manager

[SIGNATURES MUST BE NOTARIZED]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 202_, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 202_, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature

EXHIBIT A

LEGAL DESCRIPTION

The land situated in the County of Santa Clara, City of Santa Clara, State of California, described as follows:

[Insert]

APN: 224-37-068

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF SANTA CLARA
Office of the City Clerk
1500 Warburton Avenue
Santa Clara, California 95050

SPACE ABOVE THIS LINE FOR RECORDER'S USE

OFFICIAL BUSINESS
Document entitled to free
recording per Government
Code Section 27383

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (this "**Assignment**") is made as of [_] 1, 202[_] by Monroe Street Housing Partners, L.P., a California limited partnership ("**Borrower**"), in favor of the CITY OF SANTA CLARA, its successors, and assigns (collectively, the "**City**").

RECITALS

A. Borrower is the owner of a leasehold interest in real property described in Exhibit A attached hereto, and the owner of all of the personalty, fixtures, and improvements now or hereafter located thereon or attached thereto now existing or to be constructed thereon. Said real property, personalty, fixtures, and the improvements are herein referred to collectively as the "**Premises**".

B. City has agreed to make a loan (the "**Seller Loan**") to Borrower, in the original principal amount of $5,200,000, pursuant to the promissory note of even date herewith (the "**Seller Note**") and the Seller Loan Documents described therein. The Seller Loan is secured by a Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing, of even date herewith, executed by Borrower, as Trustor, for the benefit of City, as Beneficiary (the "**Seller Deed of Trust**").

C. In order to induce City to make the Seller Loan to Borrower, Borrower has agreed to execute this Assignment.

NOW, THEREFORE, with reference to the foregoing and in reliance thereon and for good and valuable consideration, the receipt of which is hereby acknowledged, Borrower agrees as follows:

AGREEMENT

1. All initially capitalized terms used herein, unless otherwise defined or required by context, shall have the meaning ascribed to them in the Seller Note. "**Obligations**" shall mean all obligations and duties of Borrower under the Seller Loan Documents. "**Indebtedness**" shall mean all monetary Obligations

2. Borrower hereby absolutely grants, sells, assigns, transfers, and sets over to City, by this Assignment, all of Borrower's interests, whether now existing or hereafter acquired, in all leases and other occupancy agreements of any nature, now or hereafter covering all or any part of the Premises, together with all extensions, renewals, modifications, or replacements of said leases and occupancy agreements, and together with any and all guarantees of the obligations of the lessees and occupants (the "**Lessees**") thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. (Said leases and occupancy agreements, together with any and all guarantees, modifications, extensions and renewals thereof, are hereinafter referred to collectively as the "**Leases**" and individually as a "**Lease**".) The term "Leases" shall exclude the Ground Lease.

3. Borrower's purpose in making this Assignment is to relinquish to City its right to collect and enjoy the rents, royalties, issues, profits, income, and other benefits at any time accruing by virtue of the Leases (hereinafter called "**Rents and Profits**").

4. The parties intend that this Assignment shall be a present, absolute and unconditional assignment, subordinate to the rights of the Senior Lender, and shall, immediately upon execution, give the City the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on the Indebtedness and other Obligations under the Seller Loan Documents, subject to the rights of the Senior Lender. However, the City hereby grants to Borrower a license to collect and use, subject to the provisions set forth below, the Rents and Profits as they respectively become due and to enforce the Leases, so long as there is no default by Borrower in performance of the terms, covenants, or provisions of the Seller Loan Documents, after the expiration of any applicable notice and cure periods. Nothing contained herein, nor any collection of Rents and Profits by City or by a receiver, shall be construed to make City a "mortgagee in possession" of the Premises so long as City has not entered into actual possession of the Premises.

5. Upon the occurrence of any default, after the expiration of any applicable notice and cure periods, under the terms and conditions of this Assignment and, this Assignment shall constitute a direction and full authority to each Lessee under any Lease and each guarantor of any Lease to pay all Rents and Profits to City without proof of the default relied upon. Borrower hereby irrevocably authorizes each Lessee and guarantor to rely upon and comply with any notice or demand by City for the payment to City of any Rents and Profits due or to become due.

6. Borrower represents and warrants as to each Lease now or hereafter covering all or any portion of the Premises, unless City has been otherwise advised in writing by Borrower:

a. That each Lease is in full force and effect;

b. That no material default exists on the part of the Borrower or to Borrower's actual knowledge, Lessee;

c. That no rent in excess of one month's rent has been collected in advance;

d. That, except for assignments to the Senior Lender, no Lease or any interest therein has been previously assigned or pledged;

e. That, to Borrower's actual knowledge, no Lessee under any Lease has any defense, setoff or counterclaim against Borrower; and

f. That, except as disclosed on a rent roll delivered to the City under the City Loan Agreement, all rent due to date under each Lease has been collected and no concession has been granted to any Lessee in the form of a waiver, release, reduction, discount, or other alteration of rent due or to become due except as previously disclosed to Borrower in writing.

7. Borrower agrees with respect to each Lease:

a. If any Lease provides for a security deposit paid by the Lessee to Borrower, this Assignment transfers to City all of Borrower's right, title, and interest in and to each such security deposit; provided, however, that Borrower shall have the right to retain said security deposit so long as Borrower is not in default, after the expiration of any applicable notice and cure periods, under this Assignment or any other Seller Loan Document; and provided further that City shall have no obligation to the Lessee with respect to such security deposit unless and until City comes into actual possession and control of said security deposit.

b. If any Lease provides for the abatement of rent during repair of the leased premises by reason of fire or other casualty, Borrower shall furnish evidence of rental insurance to City, the policies to be with companies and in form, content, policy limits, and terms as are customary in the case of entities owning similar property or assets similarly situated.

c. Except as otherwise provided in the City Loan Agreement, Borrower shall not terminate any Lease (except pursuant to the terms of the Lease upon a default by any Lessee thereunder), or materially modify or amend any Lease or any of the terms thereof which have not been previously approved in writing by the City, which approval shall not be unreasonably withheld or delayed.

d. Except as otherwise provided in the City Loan Agreement, Borrower shall not hereafter execute any Lease, the terms and conditions of which have not been previously approved in writing by City, which approval shall not be unreasonably withheld or delayed.

e. Borrower shall not collect any Rents and Profits more than thirty (30) days in advance of the date on which they become due under the terms of any Lease, provided that Borrower may collect customary security deposits more than 30 days in advance.

f. Intentionally omitted.

g. Borrower shall not consent to any assignment of any Lease, or any subletting thereunder, whether or not in accordance with its terms, on any terms less favorable than those that would reflect an aim's length transaction in light of prevailing market conditions (subject to the rent restrictions applicable to the Premises), without the prior written consent of City, except as otherwise provided in the City Loan Agreement.

h. Except as otherwise provided in the City Loan Agreement, Borrower shall not execute any further assignment of any of the Rents and Profits or any interest therein or suffer or permit any such assignment to occur by operation of law.

i. Borrower shall not request, consent to, agree to, or accept a subordination of any Lease to any mortgage, deed of trust or other encumbrance, or any other lease, now or hereafter affecting the Premises or any part thereof, or suffer or permit conversion of any Lease to a sublease, without City's prior written consent.

j. Borrower shall faithfully perform and discharge all obligations of the lessor under each Lease, and shall give prompt written notice to City of any notice of Borrower's default received from any Lessee or any other person and furnish City with a complete copy of said notice. Borrower shall appear in and defend, at no cost to City, any action or proceeding arising under or in any manner connected with any Lease. If requested by City, Borrower shall enforce each Lease and all remedies available to Borrower against the Lessee in the case of default under the Lease by the Lessee.

k. All Leases entered into by Borrower shall be deemed included in this Assignment as though originally listed herein.

l. Nothing herein shall be construed to impose any liability or obligation on City under or with respect to any Lease. Borrower shall indemnify, defend, and hold City, its officers, directors, agents, employees, and representatives (the Indemnitees) harmless from and against any and all liabilities, losses, and damages that any Indemnitee may incur under any Lease or by reason of this Assignment, and of and from any and all claims and demands whatsoever that may be asserted against any Indemnitee by reason of any alleged obligations to be performed or discharged by City under any Lease or this Agreement, unless any of the foregoing arises from or results from the gross negligence or willful misconduct of any Indemnitee. Should any Indemnitee incur any liability, loss, or damage under any Lease or by reason of this Assignment and such liability, loss, or damage falls within the foregoing indemnification, Borrower shall immediately upon demand reimburse such Indemnitee for the amount thereof together with all costs and expenses and reasonable attorneys' fees (based on itemized invoices for time and charges) and court costs incurred by such Indemnitee. All of the foregoing sums shall bear interest at the maximum rate permitted by law from demand by Indemnitee until paid. Any Rents and Profits collected by City may be applied by City, in its discretion, in satisfaction of any such liability, loss, damage, claim, demand, cost, expense, or fees.

8. Subject to the rights of the Senior Lender, Borrower hereby grants to City the following rights:

a. Upon an event of default under the Seller Loan Documents, City shall be deemed to be the creditor of each Lessee in respect of any assignments for the benefit of creditors and any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership, or other debtor relief proceedings affecting such Lessee, without obligation on the part of City, however, to file timely claims in such proceedings or otherwise pursue creditor's rights therein.

b. City shall have the right to assign Borrower's right, title, and interest in the Leases to any subsequent holder of the Seller Deed of Trust or any participating interest therein or to any person acquiring title to all or any part of the Premises through foreclosure or otherwise. Any subsequent City shall have all the rights and powers herein provided to City.

c. City shall have the right (but not the obligation), upon any event of default under the Seller Loan Documents, to take any action as City may deem necessary or appropriate to protect its security, including but not limited to appearing in any action or proceeding and performing any obligations of the lessor under any Lease; and Borrower agrees to pay, on demand, all costs and expenses, including without limitation reasonable attorneys' fees and court costs incurred by City in connection therewith, together with interest thereon at the rate of ten percent (10%) per annum.

d. Upon any event of default under the Seller Loan Document (subject to any notice and cure provisions), and without notice to or consent of Borrower, City shall have the following rights (none of which shall be construed to be obligations of City):

i. City shall have the right under this Assignment to use and possess, without rental or charge, the Fixtures, Equipment, and Personal Property of the Borrower located in or on the Premises and used in the operation or occupancy thereof. City shall have the right to apply any of the Rents and Profits to pay installments due for Personal Property rented or purchased on credit, insurance premiums on Personal Property, or other charges relating to Personal Property in or on the Premises. However, this Assignment shall not make City responsible for the control, care, management, or repair of the Premises or any Personal Property or for the carrying out of any of the terms or provisions of any Lease.

ii. City shall have the right to apply the Rents and Profits and any sums recovered by City hereunder to the outstanding Indebtedness, as well as to charges for taxes, insurance, improvements, maintenance, and other items relating to the operation of the Premises.

iii. City shall have the right to take possession of the Premises, manage and operate the Premises and Borrower's business thereon, and to take possession of and use all books of account and financial records of Borrower and its property managers or representatives relating to the Premises.

iv. City shall have the right to execute new Leases of any part of the Premises, including Leases that extend beyond the term of the Seller Deed of Trust.

v. City shall have the right to cancel or alter any existing Leases.

vi. City shall have the irrevocable authority, as Borrower's attorney-in-fact, such authority being coupled with an interest, to sign the name of Borrower and to bind Borrower on all papers and documents relating to the operation, leasing and maintenance of the Premises.

e. All of the foregoing rights and remedies of City are cumulative, and City shall also have upon the occurrence of any such default all other rights and remedies provided under the Seller Loan Documents, or otherwise available at law or in equity or by statute subject to the nonrecourse clause set forth in the City Note.

9. Failure of City to avail itself of any terms, covenants, or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

10. Notwithstanding any future modification of the terms of the Seller Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of City in accordance with the terms of this Assignment.

11. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors, and assigns of the parties hereto (including without limitation in the case of City, any third parties now or hereafter acquiring any interest in the Indebtedness or other obligations of Borrower under the Seller Loan Documents or a part thereof, whether by virtue of assignment, participation, or otherwise). The words Borrower, City, and Lessee, wherever used herein, shall include the persons and entities named herein or in any Lease and designated as such and their respective heirs, legal representatives, successors and assigns, provided that any action taken by the named City or any successor, designated as such by an instrument recorded in the Official Records of Santa Clara County, California, referring to this Assignment, shall be sufficient for all purposes notwithstanding that City may have theretofore assigned or participated any interest in the obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

12. Any change, amendment, modification, abridgment, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of City.

13. Upon payment and performance of all Obligations, as evidenced by a recorded satisfaction or release of the applicable Seller Deed of Trust, this Assignment shall be void and of no further effect.

14. All notices, demands, approvals, and other communications provided for in the Seller Loan Documents shall be in writing and be delivered to the addresses and in the manner set forth in the Seller Deed of Trust.

15. This Assignment may be recorded in the Official Records of Santa Clara County, California, and Borrower shall pay all fees, charges, costs, and expenses of such recording.

16. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

17. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

18. If City should bring any action to enforce its rights hereunder at law or at equity, Borrower shall reimburse City for all reasonable attorneys' fees and costs expended in connection therewith.

[Signatures begin on following page.]

IN WITNESS WHEREOF, the undersigned Borrower has executed this Assignment as of the date first above written.

BORROWER
Monroe Street Housing Partners, L.P.,
a California limited partnership

By: Housing Choices Coalition For Persons With Developmental Disabilities, Inc.,
a California nonprofit public benefit corporation,
its managing general partner

By: _____
Name: _____
Title: _____

By: Freebird Development Company, LLC,
a California limited liability company,
its administrative general partner

By: _____
Robin Zimbler, Manager

[Signatures must be notarized.]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2019, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2019, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature

EXHIBIT A
TO ASSIGNMENT OF RENTS AND LEASES

LEGAL DESCRIPTION

A leasehold estate in that certain Real Property in the City of Santa Clara, County of Santa Clara, State of California, described as follows:

[To be inserted.]

AMENDED AND RESTATED
DISPOSITION AND DEVELOPMENT AGREEMENT
(Freebird - 2330 Monroe Street, Santa Clara, CA 95050)

between the

THE CITY OF SANTA CLARA

and

FREEBIRD DEVELOPMENT COMPANY, LLC

ATTACHMENTS

ATTACHMENT A	LEGAL DESCRIPTION OF CITY PROPERTY
ATTACHMENT B	SCHEDULE OF PERFORMANCE
ATTACHMENT C	[RESERVED]
ATTACHMENT D	INSURANCE REQUIREMENTS
ATTACHMENT E	FINANCING SUMMARY
ATTACHMENT F	PERMITTED EXCEPTIONS
ATTACHMENT G	GROUND LEASE
ATTACHMENT H	MEMORANDUM OF GROUND LEASE
ATTACHMENT I	CITY LOAN AGREEMENT
ATTACHMENT J-1	CITY PROMISSORY NOTE
ATTACHMENT J-2	SELLER PROMISSORY NOTE
ATTACHMENT K-1	CITY DEED OF TRUST
ATTACHMENT K-2	SELLER DEED OF TRUST
ATTACHMENT L-1	CITY ASSIGNMENT OF RENTS AND LEASES
ATTACHMENT L-2	SELLER ASSIGNMENT OF RENTS AND LEASES
ATTACHMENT M	CITY ASSIGNMENT OF AGREEMENTS
ATTACHMENT N	PROVISIONS FOR DISBURSEMENT AGREEMENT
ATTACHMENT O	[RESERVED]
ATTACHMENT P	CITY REGULATORY AGREEMENT
ATTACHMENT Q	GRANT DEED
ATTACHMENT R	[RESERVED]
ATTACHMENT S	CITY ENVIRONMENTAL INDEMNITY

AMENDED AND RESTATED
DISPOSITION AND DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT (Freebird - 2330 Monroe Street, Santa Clara, CA 95050), dated for identification purposes only as of _____, 2020, is entered into by and between the **CITY OF SANTA CLARA**, a California municipal corporation (the "**City**"), and **FREEBIRD DEVELOPMENT COMPANY, LLC,** a California limited liability company ("**Developer**"), with reference to the following:

R E C I T A L S

The following recitals are a substantive part of this Agreement:

A. The City is a California municipal corporation existing under the laws of the State of California.

B. The City has adopted a Housing Element to its General Plan pursuant to Government Code § 65580 *et seq.*, which sets forth City's policies, goals and objectives to provide housing to all economic segments of the community, including the preservation and development of housing affordable to low and moderate income households.

C. The City owns that certain vacant lot of approximately 2.5 acres located at 2330 Monroe Street, Santa Clara, California (the "**City Property**") as described and depicted in Attachment A. The City issued a Request for Proposals for 2330 Monroe Street / San Tomas And Monroe dated March 30, 2018 with respect to the development of the City Property ("**RFP**"). Developer's proposal in response to the RFP was selected.

D. Developer desires to acquire a leasehold interest in the City Property. The leasehold interest in the City Property shall be conveyed to Developer from the City, together with a fee interest in all buildings, structures, fixtures, landscaping and other improvements erected or located thereon, and all easements, rights of way, privileges, licenses, appurtenances and other rights and benefits belonging to or in any way related to the City Property including minerals, oil and gas rights, air, water and development rights, roads, alleys, easements, streets and ways adjacent to the City Property (collectively, the "**Property**").

E. Developer shall develop the Property in accordance with the applicable conditions of approval issued by the City of Santa Clara.

F. Developer intends to develop upon the Property 65 units of housing. As of the date of this Agreement, the Parties anticipate that units will be leased as follows: (a) 16 units to be leased to 30% AMI Households who qualify as persons with developmental disabilities; (b) 10 units to be leased to 50% AMI Households; (c) 13 units to be leased to 60% AMI Households; (d) 16 units to be leased to 80% AMI Households; (e) 9 units to be leased to 120% AMI Households; and (f) 1 unit as a manager's unit (the "**Management Unit**"). The foregoing units to be developed on the Property, excluding the Management Unit, are referred to herein as the "**Affordable Units**". Developer also intends to include a community room, property management and social services offices, an exercise room, a library/game room, onsite laundry, an All Abilities play area, and an outdoor fitness path. Developer's leasehold interest in the City

Property, and fee interest in the Improvements located thereon, together with the development thereof in accordance with this Agreement, are referred to herein as the "**Project**").

G. Developer requires assistance from City in order to develop and construct the Project. City has agreed to assist Developer with (1) a seller takeback loan in the amount of $5,200,000 (the "**Seller Loan**") to finance the capitalized rent under the Ground Lease (as defined below), and (2) a loan of up $~~5,000,000~~6,500,000 (the "**City Loan**"), provided that the Affordable Units are held for rent and rented to Qualified Tenants in accordance herewith. The total development cost of the Project is estimated to be approximately $38,000,000.

H. Developer intends to form a limited partnership (the "**Tax Credit Partnership**") to own and finance the Project and who will be the successor in interest under this Agreement as to Developer's rights and obligations regarding the Project. The Tax Credit Partnership would secure other construction and permanent financing sources to cover the total cost of developing the Project. The anticipated funding sources for the Project include the sources shown in the Financing Summary attached as Attachment E to this Agreement.

I. ~~H.~~ Developer and City agree that the Seller Loan and the City Loan will facilitate the development of affordable rental housing and provide an opportunity for a more comprehensive and coordinated project consistent with and in furtherance of the goals and objectives of the City's Housing Element of its General Plan.

J. The City and Developer are parties to that certain Disposition and Development Agreement dated for identification purposes only as of January 28, 2020 (the **"Original Agreement**") with respect to the Property. The City and Developer now desire to amend and restate the Original Agreement pursuant to the terms and conditions of this Agreement.

K. ~~I.~~ The development of the Project as contemplated by this Agreement is consistent with the City's Housing Element, is in the vital and best interest of the City, is necessary for the protection of the health, safety and welfare of the City's residents, and is in accord with the public purposes and provisions of applicable state and local laws and requirements. This Agreement further implements the City's policies for the production of housing for all economic segments of the population.

NOW, THEREFORE, the City and Developer hereby agree as follows:

1. DEFINITIONS

1.1. Defined Terms

As used in this Agreement, the following capitalized terms shall have the following meanings:

"**30% AMI Household(s)**" means a household whose aggregate gross income equals 30% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**50% AMI Household(s)**" means a household whose aggregate gross income equals 50% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**60% AMI Household(s)**" means a household whose aggregate gross income equals 60% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**80% AMI Household(s)**" means a household whose aggregate gross income equals 80% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**120% AMI Household(s)**" means a household whose aggregate gross income equals 120% or less of AMI, as adjusted for family size. For purposes of this definition, "adjusted for family size" means the actual number of persons in the applicable household.

"**Affiliate**" means any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Developer which, if the party is a partnership or limited liability company, shall include each of the constituent members or general partners, respectively, thereof, or an entity in which Developer has an equity interest and is the managing member, managing partner or controlling shareholder. The term "control" as used in the immediately preceding sentence, means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, more than 50% of the voting rights attributable to the shares of the controlled corporation, and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

"**Affordability Period**" means the period commencing upon Conversion (as defined in the City Loan Agreement) and terminating on the fifty-fifth (55th) anniversary thereof.

"**Affordable Rent**" means an amount of monthly rent, including a reasonable utility allowance, that does not exceed the maximum rent to be charged by Developer and paid by the Qualified Tenant occupying the Affordable Units as determined pursuant to the TCAC Regulations. The tenant utility allowance shall be determined by the Housing & Community Services Division of the City. The calculation of Affordable Rent shall be performed annually.

"**Affordable Units**" is defined in Recital F.

"**Agreement**" means this Amended and Restated Disposition and Development Agreement by and between the City and Developer, including (i) the Recitals set forth herein, and (ii) all attachments hereto, which are incorporated herein by this reference.

"**AMI**" means the median family income figures and standards (adjusted for actual Household size) (I) utilized by TCAC as to 30% AMI Households, 50% AMI Households, 60% AMI Households, and 80% AMI Households; and (II) utilized by HCD pursuant to California Health and Safety Code Section 50093 as to 120% AMI Households.

"**Business Day(s)**" means Monday through Friday, except for federal and state holidays.

"**City**" means the City of Santa Clara, a California municipal corporation.

"**City Advance**" is defined in Section 3.13.

"**City Assignment of Agreements"** shall mean the Assignment of Agreements substantially in the form attached to this Agreement as Attachment M, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Assignment of Rents and Leases"** shall mean the Assignment of Rents and Leases substantially in the form attached to this Agreement as Attachment L-1, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Deed of Trust**" means the Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) securing the City Loan, in substantially the form attached to this Agreement as Attachment K-1, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Environmental Indemnity**" means the Environmental Indemnity, in substantially the form attached to this Agreement as Attachment S, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Indemnitees**" means City and its departments, divisions, agencies, elected officials, boards, officers, employees, representatives and agents.

"**City Lender ~~Policy~~Policies**" is defined in Section 3.5.2

"**City Loan**" is defined in Recital G.

"**City Loan Agreement**" means the affordable housing loan agreement in substantially the form attached to this Agreement as Attachment I, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Loan Documents**" means the City Loan Agreement, the City Promissory Note, the City Deed of Trust, the City Assignment of Rents and Leases, the City Assignment of Agreements, the City Environmental Indemnity, the City Regulatory Agreement and any amendments and modifications thereto.

"**City Promissory Note**" means the Promissory Note evidencing the City Loan in substantially the form attached to this Agreement as Attachment J-1, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Property**" is defined in Recital C.

"**City Regulatory Agreement**" means the affordable housing regulatory agreement entered into in connection with the City Loan substantially in the form attached to this Agreement as Attachment P, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**City Representative**" means the City Manager of the City or his or her designated representative.

"**City's Conditions Precedent to Closing**" is defined in Section 3.7.1.

"**Closing**" means the date following Developer's delivery of the Closing Notice to City upon which the conditions precedent set forth in Section 3.7.1 and 3.7.2 are satisfied or waived in writing and the Conveyance Documents are recorded in the Official Records conveying the Property to Developer and the City has made the City Loan to Developer.

"**Closing Notice**" is defined in Section 3.3.

"**Construction Budget**" means the schedule of construction expenses actually and expected to be incurred by Developer in connection with the Project and reasonably approved by the City prior to the Closing, and as may be amended or modified pursuant to the City Loan Documents.

"**Construction Contract**" is defined in Section 5.3.

"**Construction Lender**" means a lender providing construction financing for the Project selected by Developer in its sole and absolute discretion.

"**Construction Loan**" means the loan for construction of the Project from Construction Lender.

"**Construction Loan Documents**" means any agreements and documents evidencing or securing the Construction Loan and includes all attachments, modifications and amendments thereto.

"**Conveyance Documents**" means, collectively, the Grant Deed, if requested by Developer, and the Ground Lease Memorandum.

"**County**" means Santa Clara County.

"**County Loan**" means that certain proposed loan from County to Developer in the amount of up to $3,200,000.

"**Developer**" means Freebird Development Company, LLC, a California limited liability company, and its successors and assigns as permitted pursuant to this Agreement.

"**Developer's Conditions Precedent to Closing**" is defined in Section 3.7.2.

"**Development Costs**" shall mean the total cost of developing and constructing the Project, as set forth in the Construction Budget.

"**Disbursement Agreement**" means a disbursement agreement, if requested by the Construction Lender, among the City, the Construction Lender, and Developer, which shall substantially include the terms and conditions in the list attached hereto as Attachment N, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Economic Event**" is defined in Section 8.7.

"**Effective Date**" means the date upon which this Agreement shall have been signed by Developer and the City and the City Advance has been paid to the City.

"**Eligible Project Costs**" means all costs and expenses permitted and approved pursuant to this Agreement as set forth in the Construction Budget which are customarily incurred and shall have been actually incurred by Developer for the development and construction of the Project and shall include, without limitation, the following: construction costs; a developer fee in an amount not to exceed that permitted by the TCAC Regulations; property taxes and assessments; security services; utilities fees; insurance; and such other costs, fees and expenses, as agreed to in writing by the City; provided, however, that payment to parties related to Developer for Eligible Project Costs must not exceed reasonable and customary market rates.

"**Entitlements**" means and includes any and all general plan amendments, zoning approvals or changes, required approvals and certifications under the California Environmental Quality Act, tentative and final tract maps, variances, conditional use permits, demolition permits, excavation/foundation permits, grading permits, building permits, inspection reports and approvals, certificates of occupancy, and other approvals, permits, certificates, authorizations, consents, orders, entitlements, filings or registrations, and actions of any nature whatsoever required from any applicable governmental authorities in order to commence and complete the construction of the Project or any of the proposed development on the Project.

"**Environmental Laws**" means any and all present and future federal, state and local laws (whether under common law, statute, ordinance, rule, regulation or otherwise), court or administrative orders or decrees, requirements of permits issued with respect thereto, and other requirements of governmental authorities relating to the environment or to any Hazardous Materials or Hazardous Materials Activity (including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601, *et seq.*), as heretofore or hereafter amended from time to time ("CERCLA"), and the applicable provisions of the Health & Safety Code and the Water Code, and any and all successor statutes and regulations, orders, decrees, guidelines, or pronouncements promulgated thereunder).

"**Escrow**" is defined in Section 3.3.

"**Escrow Agent**" means Old Republic Title Company or such other escrow agent reasonably approved by the City and Developer.

"**Escrow Costs**" is defined in Section 3.3.

"**Event of Default**" is defined in Section 7.1.

"**Event(s) of Force Majeure**" is defined in Section 8.7.

"**Evidence of Financing**" is defined in Section 5.1.

"**Financing Summary**" means the Financing Summary attached as Attachment E and incorporated hereby, which shows the estimated sources and uses for the development and construction of the Project, as may be updated in accordance herewith; upon approval of a

Project Pro Forma by the City, the approved Project Pro Forma shall constitute the Financing Summary.

"**General Contractor**" shall mean CORE General Contractor Inc., or such other general contractor as may be approved by City.

"**Governmental Regulations**" means any local, state, and federal laws, ordinances, rules, requirements, resolutions, policy statements and regulations (including, without limitation, those relating to land use, subdivision, zoning, Environmental Laws, labor relations, prevailing wage, notification of sale to employees, Hazardous Materials, occupational health and safety, water, earthquake hazard reduction and building and fire codes; and including the National Environmental Policy Act (NEPA) and all Environmental Laws) bearing on the demolition, alteration, replacement, repair, refurbishing, improvement, construction, maintenance, management, use, or operation of the Project.

"**Grant Deed**" shall mean the Grant Deed substantially in the form attached to this Agreement as Attachment Q, pursuant to which the City will convey a fee interest in the Improvements to Developer.

"**Ground Lease**" means the Ground Lease between the City, as landlord, and Developer, as tenant, providing Developer with a leasehold interest in the City Property substantially in the form attached to this Agreement as Attachment G, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Ground Lease Memorandum**" means the Memorandum of Ground Lease between the City, as landlord, and Developer, as tenant, evidencing the Ground Lease, to be recorded against the City Property in the Official Records upon the Closing, in substantially the form attached to this Agreement as Attachment H, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Hazardous Materials**" means any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Materials Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Materials), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated byphenyls, (viii) methyl tertiary butyl ether, (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Division 4, Chapter 20, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901, *et seq*. (42

U.S.C. Section 6903) or (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601, *et seq*., but shall not include, customary building maintenance and cleaning products, construction products, and landscape maintenance products as are used, stored, handled, transported, treated and disposed of in compliance with Environmental Laws by owners and operators of properties similar to the Project.

"**Household**" means one or more persons occupying an Affordable Unit.

"**Improvements**" means and includes any buildings, structures, fixtures, foundations, excavation, parking, landscaping, or underground installations located on the City Property.

"**Insurance Requirements**" means the City's insurance requirements attached as Attachment D and incorporated hereby.

"**Investor Limited Partner**" means, collectively, one or more investor limited partners selected by Developer in its sole and absolute discretion to be the limited partner(s) in the Tax Credit Partnership.

"**Loan Proceeds**" means funds disbursed from the City Loan.

"**Losses and Liabilities**" means and includes all claims, suits, causes of action, arbitration proceedings, administrative proceedings, regulatory proceedings, expenses, liabilities, losses, damages (including, without limitation, penalties, fines and monetary sanctions), injuries, charges, penalties or costs of whatsoever character, nature and kind, including reasonable attorney's fees and costs, expert witness fees, court costs, interest and defense costs, consultant fees, investigation and laboratory fees, and remedial and response costs incurred by the indemnified party with respect to counsel of its choice, whether to property or to person, whether by direct or derivative action, and whether known or unknown, suspected or unsuspected, latent or patent, actual alleged or threatened.

"**Management Unit**" is defined in Recital F.

"**Notice**" means a notice in the form prescribed by Section 8.1 hereof.

"**Official Records**" means the official records of the Santa Clara County Recorder's Office.

"**Outside Closing Date**" is the date indicated in the Schedule of Performance.

"**Parties**" means the City and Developer, and any permitted successors and assigns thereof.

"**Permanent Loan**" shall mean any permanent loan, in an amount not to exceed the Construction Loan except as reasonably approved by the City, for the Project to be made to Borrower by the Construction Lender or other lender in accordance with the Project Pro Forma following Conversion, secured by a deed of trust against the Project.

"**Permitted Transfer**" is defined in Section 2.3.2.

"**Project**" is defined in Recital F.

"**Project Pro Forma**" means the financial information to be prepared by Developer, and any updates and amendments thereto, including without limitation, the Project construction budget, estimated sources and uses of financing, and the Project's operating budget and reasonably approved by the City as of the date of Closing.

"**Property**" is defined in Recital D.

"**Qualified Tenant(s)**" means a Household who qualifies as a 30%, 50%, 60%, 80%, and/or 120% AMI Household, as applicable.

"**Schedule of Performance**" means the Schedule of Performance attached hereto as Attachment B and incorporated hereby as may be amended from time to time, which establishes the dates and/or time periods by which certain obligations set forth in this Agreement must be accomplished, subject to Events of Force Majeure. The Schedule of Performance may be subject to revision from time to time as mutually agreed on in writing between Developer and the City.

"**Seller Assignment of Rents and Leases"** shall mean the Assignment of Rents and Leases substantially in the form attached to this Agreement as Attachment L-2, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Seller Deed of Trust**" means the Subordinated Leasehold Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) securing the Seller Loan, in substantially the form attached to this Agreement as Attachment K-2, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Seller Loan**" is defined in Recital G.

"**Seller Loan Documents**" means the Seller Promissory Note, the Seller Deed of Trust, the Seller Assignment of Rents and Leases and any amendments and modifications thereto.

"**Seller Promissory Note**" means the Promissory Note evidencing the Seller Loan in substantially the form attached to this Agreement as Attachment J-2, subject to such changes as the Construction Lender and the Investor Limited Partner may request that are reasonably approved by the City.

"**Senior Lender**" means any lender of a Senior Loan.

"**Senior Loan**" means the Construction Loan and the Permanent Loan (but sequentially and not concurrently), and any other loan in the Project Pro Forma with a principal amount in excess of the [aggregate amount of the Seller Loan plus the]City Loan.

"**Senior Loan Documents**" means any agreements and documents evidencing or securing a Senior Loan and includes all attachments, modifications and amendments thereto.

"**Social Services**" means the social services to be provided to residents of the Project, which shall include, at a minimum, services for households with intellectual and/or developmental disabilities.

"**State**" means the State of California.

"**Subordination Agreement**" means an agreement between a Senior Lender and the City in such form as is reasonably approved by the City that subordinates the City Loan and City Loan Documents and Seller Loan and Seller Loan Documents to the applicable Senior Loan and Senior Loan Documents and contains such other terms as may be required by the applicable Senior Lender that are reasonably approved by the City; provided, however, that the City Regulatory Agreement shall not be subordinated.

"**Tax Credit Partnership**" is defined in Recital G.

"**Tax Credit Regulatory Agreement**" means the regulatory agreement that will be recorded against the Project with respect to the Tax Credits.

"**Tax Credits**" means Low Income Housing Tax Credits granted pursuant to Section 42 of the Internal Revenue Code.

"**TCAC**" means the California Tax Credit Allocation Committee.

"**TCAC Regulations**" means the California Tax Credit Regulations Implementing the Federal and State Low Income Housing Tax Credit Laws, California Code of Regulations, Title 4, Division 17, Chapter 1.

"**Title Company**" means Old Republic Title Company.

"**Unit(s)**" means any or all of the apartment units in the Project, including the Affordable Units and/or the Management Unit.

1.2. Singular and Plural Terms

Any defined term used in the plural herein shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3. Accounting Principles

Any accounting term used and not specifically defined herein shall be construed in conformity with, and all financial data required to be submitted herein shall be prepared in conformity with, generally accepted accounting principles applied on a consistent basis or in accordance with such other principles or methods as are reasonably acceptable to the City Representative.

1.4. References and Other Terms

Any reference to any document shall include such document both as originally executed and as it may from time to time be modified. References herein to Sections and Attachments shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in

which the reference appears. The term "document" is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms "including" and "include" mean "including (include), without limitation."

1.5. Attachments Incorporated; Attachments Additional Consideration

All Attachments, as now existing and as the same may from time to time be modified, are incorporated herein by this reference. Each Attachment or agreement delivered by Developer or another party substantially in the form of an Attachment hereto in connection with this Agreement is required as and constitutes consideration for the City to make the City Loan and the Seller Loan.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS

2.1. Representations by City.

City represents and warrants to Developer, as of the Effective Date and as of the Closing, as follows:

2.1.1. Authority.

City is a California municipal corporation possessed of full right, power and lawful authority to perform its obligations hereunder, and the execution, delivery, and performance of this Agreement by City has been fully authorized by all requisite actions on the part of the City Council.

2.1.2. No Conflict.

City's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which City is a party or by which City is bound.

2.1.3. No Litigation or Other Proceeding.

To City's current actual knowledge, no litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened which would prevent, hinder or delay the ability of City to perform its obligations under this Agreement, or that would adversely affect the City Property, or Developer's use and development of the Property.

2.1.4. Eminent Domain.

To City's actual current knowledge there are no condemnation or eminent domain proceedings which are pending or have been threatened that affect the City Property.

2.1.5. Condition of City Property.

City has no notice of any pending or threatened action or proceeding arising out of the condition of the City Property or any alleged violation of any Environmental Law or Governmental Regulations. To City's actual current knowledge, the City Property is in compliance with all Environmental Laws and Governmental Regulations.

Each of the foregoing representations in this Section 2.1 shall be deemed to be an ongoing representation and warranty, and until the expiration or earlier termination of this Agreement, City shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.1 not to be true, promptly give written notice of such fact or condition to Developer. Notwithstanding anything to the contrary in this Agreement, the foregoing representations and warranties of City shall survive the Closing of this Agreement for a period of twelve (12) months. After Closing, the City's liability for any breach of this Section 2.1 shall be limited to the portion of the City Advance actually retained by City.

2.2. Representations by Developer.

Developer represents and warrants to the City, as of the Effective Date and as of the Closing, as follows:

2.2.1. Organization

Developer is duly organized, validly existing and in good standing under the laws of the State of California and has the power and authority to own property and carry on its business as now being conducted and as contemplated hereby. The copies of the documents evidencing the organization of Developer delivered to the City are true and correct copies of the originals as of the Effective Date.

2.2.2. Authority

Developer has the legal power, right and authority to execute, deliver and enter into this Agreement, and to perform and observe the terms and provisions of this Agreement. Developer has been fully authorized to execute this Agreement and all other documents or instruments to be executed and delivered, pursuant to this Agreement, and all actions required under Developer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered pursuant hereto, have been duly taken.

2.2.3. Valid and Binding Agreements

This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will constitute when so executed and delivered, legal, valid and binding obligations of Developer enforceable against it in accordance with the terms of each respective document or instrument.

2.2.4. Litigation

No action, suit or proceedings are pending or, to Developer's current actual knowledge, threatened before any governmental department, commission, board, bureau, agency or instrumentality to which Developer is or may be made a party or to which any of its property is or may become subject, which has not been fully disclosed to the City and which could adversely affect the ability of Developer to carry out its obligations hereunder.

2.2.5. No Conflict

Developer's execution and delivery of this Agreement and any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, and the performance of any provision, condition, covenant or other term hereof or thereof, do not or will not conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on Developer, or any provision of the organizational documents of Developer, or will conflict with or constitute a breach of or a default under any agreement to which Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of Developer, other than liens established pursuant hereto.

2.2.6. No Developer Bankruptcy

No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, receivership or other proceedings are pending or, to Developer's current actual knowledge, threatened against Developer or any other parties affiliated with Developer, nor are any of such proceedings contemplated by Developer or any parties affiliated with Developer.

2.2.7. Financing Summary; Project Pro Forma

For purposes hereof, the Financing Summary attached hereto shall constitute the Financing Summary as of the Effective Date. The Financing Summary and any written updates thereto provided to the City constitute Developer's reasonable estimates as of the anticipated financing for the development of the Project. To Developer's actual knowledge after due inquiry, there are no material omissions from the Financing Summary, and Developer agrees and acknowledges that the City is relying on the information set forth therein in making the City Loan and the Seller Loan.

Developer shall submit to the City for approval a Project Pro Forma within 60 days of the Effective Date. The Project Pro Forma and any written updates thereto provided to the City constitute Developer's reasonable estimates as of the date of the Project Pro Forma with respect to the information set forth therein, and shall include the Financing Summary and any updates thereto. Developer shall submit to the City any changes or updates to the Project Pro Forma (or a notice that there has been no such change) within two (2) weeks of each March 31, June 30, September 30 and December 31 after the date hereof, and in any event at the Project Pro Forma to be included in the application for Tax Credits and/or tax-exempt financing, if applicable, at least 20 days prior to the submission of any such application. To the actual knowledge of Developer after due inquiry, there are no material omissions from the Financing Summary or any updates thereto, and Developer agrees and acknowledges that the City is relying on the information set forth therein in making the City Loan and the Seller Loan.

Each of the foregoing representations in this Section 2.2 shall be deemed to be an ongoing representation and warranty, and until the expiration or earlier termination of this Agreement, Developer shall upon learning of any fact or condition which would cause any of the representations and warranties in this Section 2.2 not to be true, promptly give written notice of such fact or condition to City. Notwithstanding anything to the contrary in this Agreement, the

foregoing representations and warranties of Developer shall survive the Closing of this Agreement for a period of twelve (12) months.

2.3. Limitation Upon Change in Ownership, Management and Control of Developer

The identity and qualifications of Developer and its respective members, officers and/or partners as experienced and successful developers and operator/managers of affordable housing are of particular concern to the City. It is because of this identity and these qualifications that the City has entered into this Agreement with Developer. No voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

2.3.1. Prohibition

Except for Permitted Transfers, Developer shall not transfer or assign all or any part of this Agreement, or any interest herein, permit any change in the management or control of Developer, or permit a transfer of more than 25% of the equity interests Developer, without the prior written approval of the City, which may be withheld in its sole and absolute discretion. Any such change (or assignment of this Agreement in connection therewith) shall be by instruments satisfactory to the City, and be subject to the approval by the City of evidence of the proposed assignee's qualifications to meet the obligations of Developer under this Agreement.

2.3.2. Permitted Transfers by Developer

Notwithstanding any other provision of this Agreement, the City approval of an assignment of this Agreement or any interest herein shall not be required in connection with any of the following (each a "**Permitted Transfer**"): nominating the Tax Credit Partnership to take title to the Project at the Closing, or any assignment or transfer of this Agreement to the Tax Credit Partnership, provided that in either event, the City has reasonably approved all general partners thereof.

2.3.3. City Consideration of Requested Transfer

Except for Permitted Transfers, Developer shall provide the City with thirty (30) calendar days' prior written notice of its intent to assign or transfer all or any part of this Agreement or effect a change in the management or control of Developer and shall request any approval sought for such assignment or transfer, which approval may be withheld by the City in its sole and absolute discretion. The notice shall be accompanied by evidence regarding the proposed transferee's development, operation and management qualifications and experience and its financial commitments and resources sufficient to enable the City to evaluate whether the proposed assignee or purchaser is qualified and capable to perform Developer's obligations pursuant to this Agreement.

Within thirty (30) calendar days, or, if City Council approval is required, forty-five (45) calendar days, after the receipt of Developer's written request for the City approval of an assignment or transfer pursuant to this Section 2.3.3, the City shall respond in writing either approving or disapproving the proposed assignee or transferee or requesting further information required by the City in order to determine whether or not to grant the

requested approval. Upon receipt of such a request for further information, Developer shall promptly furnish to the City such requested information.

If the City fails to approve or disapprove the requested transfer or assignment within the thirty (30) calendar days after receipt of Developer's written request (or receipt of any further information reasonably requested by City), Developer may send a second and final notice, together with a clear statement indicating that if City does not act upon such request within fifteen (15) days following receipt of this second notice, the request shall be deemed approved. Failure of the City to act within this fifteen (15) day period shall be deemed an approval of the request, provided Developer has included a statement to that effect in its second and final notice and has provided in a timely manner all other information required in connection with City's review of such request. The City shall not unreasonably withhold, condition or delay its approval of an assignment or transfer to a proposed assignee or transferee who, in the reasonable opinion of the City, is financially capable and has the development and operational qualifications and experience to perform the duties and obligations of Developer hereunder. Developer shall promptly pay the City's costs of evaluating and consummating any request for assignment or transfer, including any reasonable attorneys' fees or costs.

3. DISPOSITION OF SITE; ENVIRONMENTAL MATTERS

3.1. Transfer of the Property

The City is the owner in fee of the City Property. In consideration of payment of the covenants and consideration as set forth in this Agreement, upon satisfaction or waiver of the City's Conditions Precedent to Closing, the City shall enter into the Ground Lease and Ground Lease Memorandum. Developer agrees to enter into the Ground Lease and Ground Lease Memorandum upon satisfaction or waiver of Developer's Conditions Precedent to Closing. The Closing shall occur no later than the Outside Closing Date, subject to Events of Force Majeure.

3.2. Access; Condition of the Property; Environmental

3.2.1. Access to PropertyPrior to the Closing, City shall cooperate to enable representatives of Developer to obtain the right of access to all portions of the City Property for the purpose of obtaining data and making surveys and tests which Developer determines are reasonably necessary or desirable, including the investigation of the soils and environmental condition of the City Property. Developer agrees to provide written notice to City at least twenty-four (24) hours prior to undertaking any studies or work upon the City Property. Developer shall keep the City Property free and clear of any liens and indemnify, defend, protect and hold City harmless from any claims arising out of the acts, omissions, negligence or willful misconduct of Developer or its employees, agents, contractors or representatives in connection with such studies and investigations, except for claims arising from or related to any pre-existing condition on or of the City Property or claims to the extent caused by the negligence or willful misconduct of City or its employees, agents, contractors or representatives. If any inspection or test conducted by or expressly on Developer's behalf disturbs the Property, Developer will restore the Property to substantially the same condition as existed prior to any such inspection or test. Prior to any entry or access to the City Property, Developer will provide the City with evidence that Developer has in place a policy of commercial general liability insurance in an amount not less than $2,000,000.00 per occurrence covering any accident arising in connection with Developer or its employees and authorized agents, representatives, contractors and consultants entry upon the City Property, naming the City as additional insured. The obligations of Developer under this Section 3.2.1 shall survive the termination of the Agreement.

3.2.2. Disclosure

The City hereby represents and warrants to Developer that, to the best of the City's knowledge, the City has not received any prior written notice or communication from any government agencies having jurisdiction over the City Property, or from any other third party, notifying the City or any third party of the presence of surface or subsurface zone Hazardous Materials in, on, adjacent to, or under the City Property, or any portion thereof.

3.2.3. Developer's Investigation of the Property

Developer has had full access to Property and the opportunity to obtain additional information and documentation as Developer deems necessary to evaluate the Property, to investigate and study the condition of the Property, and to make submissions and applications to all applicable governmental authorities with respect to the Entitlements. Developer acknowledges that except for the representations, warranties and covenants of the City contained in this Agreement, Developer has relied and shall rely solely upon (i) its own expertise and that of Developer's consultants in purchasing the Property, and (ii) Developer's own knowledge of the Property based on its investigations and inspections of the Property. Developer has conducted such inspections and investigations of the Property as Developer deemed or shall deem necessary, including, but not limited to, the physical and environmental conditions of the Property. Except for the City's representations, warranties and covenants and as may be expressly provided herein, upon Closing, Developer acknowledges and, as between the City and Developer, shall assume the risk, that there may be adverse matters, including, but not limited to, adverse physical and environmental conditions, that are not known to the City and

that may not have been revealed by Developer's inspections and investigations. Developer acknowledges and agrees that except for the representations and warranties of the City herein, upon Closing, the City shall convey to Developer and Developer shall accept the Property "AS IS, WHERE IS," with all faults and defects (latent and apparent). Except for the representations and warranties of the City contained herein and in any documents executed and delivered by the City at Closing pursuant to this Agreement, Developer further acknowledges and agrees that there are no oral agreements, warranties or representations, collateral to or affecting the Property by the City or any agent, employee or contractor of the City or any third party. The City is not liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Property furnished by the City, or any real estate broker, contractor, agent, employee, servant or other person, unless the same are specifically set forth in this Agreement or any other documents executed and delivered by the City at Closing pursuant to this Agreement. Developer acknowledges that the consideration that Developer is delivering to the City reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Property. Developer has fully reviewed the disclaimers and waivers set forth in this Agreement with its counsel and understands the significance and effect thereof.

3.3. Escrow

Not later than sixty (60) days prior to Closing, the Parties shall open escrow (the "**Escrow**") with Escrow Company for the conveyance of the Property and the closing of the City Loan and the Seller Loan. The Closing shall occur no later than the "Outside Closing Date" stated in the Schedule of Performance, subject to Events of Force Majeure. The Closing shall occur on a date selected by Developer in a written notice to City received at least 30 days in advance of the selected Closing date (the "**Closing Notice**"). If the City does not receive a Closing Notice at least 30 days prior to the Outside Closing Date, the Closing shall occur on the Outside Closing Date.

Developer shall pay and be solely responsible for any documentary transfer taxes in connection with the conveyance of the Property to Developer, and any and all title, recording, escrow and closing costs in connection herewith (the "**Escrow Costs**"), except for the costs and expense of the City's own consultants, and Developer shall prepare and enter into such escrow instructions as are reasonably acceptable to Developer, the City and Escrow Agent.

3.4. [Intentionally deleted.]

3.5. Title Insurance

3.5.1 Concurrently with the Closing, Title Company shall issue to Developer (or its permitted nominees or assignees), at Developer's cost, an owner's policy of title insurance, in such amounts and with such endorsements as agreed to between Developer and the Title Company, which at Developer's option may be an ALTA extended coverage owner's policy provided that Developer satisfies all requirements therefor (the "**Developer Title Policy**") (provided, however, that it shall not be a Developer Condition Precedent to Closing that any Developer Title Policy be in any particular amount or include any specific endorsements), insuring that Developer has a valid leasehold interest in the Project, subject only to (A) the lien of non-delinquent real property taxes and assessments, (B) the exceptions to title identified on Attachment F hereto (the "**Permitted Exceptions**"), and (C) agreements expressly required by this Agreement to be recorded at the Closing. The City shall, at no cost or expense to the City,

cooperate with and assist Developer in obtaining such policy, including providing any required indemnities or affidavits that are customary and commercially reasonable.

3.5.2 Concurrently with the Closing, Title Company shall issue to the City, at Developer's cost, ~~a~~ lender's ~~policy~~policies of title insurance in the ~~amount~~amounts of the City Loan and the Seller Loan, respectively, which at City's option may be a 2006 ALTA extended coverage lender's policy, together with such endorsements as are reasonably requested by the City (collectively, the "**City Lender ~~Policy~~Policies**"), insuring (a) the lien of the City Deed of Trust to be a first priority lien on the Project after the lien of the Senior Loans and (b) the Seller Deed of Trust to be a second priority lien on the Project after the lien of the Senior Loans, and containing such endorsements as the City may reasonably require, which may include zoning, survey, access, parcel contiguity, environmental, tax parcel, and subdivision endorsements, subject only to the (A) the lien of non-delinquent real property taxes and assessments, (B) the Permitted Exceptions, (C) agreements expressly required by this Agreement to be recorded at the Closing, (D) the lien of the Senior Lenders, and (E) any exception to title which may be approved by the City.

3.6. Submittals into Escrow for the Closing

The Parties shall submit documents and funds into Escrow for the Closing as set forth in this Section.

3.6.1 Submittals by Developer

At least five (5) Business Day prior to Closing (unless otherwise indicated below), Developer shall submit into Escrow the following:

(A) The Conveyance Documents to the extent signed by Developer, duly executed by Developer and acknowledged.

(B) The Ground Lease, duly executed by Developer.

(C) The City Loan Documents, duly executed by Developer and acknowledged where appropriate.

(D) The Seller Loan Documents, duly executed by Developer and acknowledged where appropriate.

(E) ~~(D)~~ The Disbursement Agreement (if applicable), duly executed by City, Developer, and the Construction Lender (which may be deposited with Escrow one (1) Business Day prior to the Closing date).

(F) ~~(E)~~ Any other documents or other deliverables reasonably requested by the City or the Escrow Agent (which may be deposited with Escrow one (1) Business Day prior to the Closing date).

(G) ~~(F)~~ Sufficient funds to pay costs of escrow and title to effect the conveyance of the Property to Developer (which amounts may be deposited with Escrow on the Closing date).

3.6.2 Submittals by the City

At least one (1) Business Day prior to Closing, the City shall submit into Escrow the following:

(A) The Conveyance Documents, duly executed by the City and acknowledged.

(B) The Ground Lease, duly executed by the City.

(C) The City Loan Documents, duly executed by the City and acknowledged where appropriate.

(D) The Disbursement Agreement, if applicable.

(E) A non-foreign transferor certification in accordance with the requirements of Section 1445 of the Internal Revenue Code of 1986, as amended, and a California Form 593 certificate, each in a form acceptable to Developer and Escrow Agent and executed by City.

(F) Any other documents or other deliverables reasonably requested by Developer or the Escrow Agent.

(G) The proceeds of the City Loan, in accordance with the City Loan Documents.

3.7. Conditions Precedent to Closing

The Closing is conditioned upon satisfaction of the terms and conditions set forth in this Section.

3.7.1 The City's Conditions.

The City's obligation to close Escrow and convey the Property to Developer is conditioned upon the satisfaction or written waiver of each and every one of the conditions precedent described below ("**City's Conditions Precedent to Closing**"), which are solely for the benefit of the City, and which shall be satisfied or waived by the time periods provided for herein. The City at its option may terminate this Agreement if any of the conditions precedent set forth below are not satisfied by Developer or waived in writing by the City by the Outside Closing Date, subject to Events of Force Majeure.

(A) Execution of Documents. Developer and any third party shall have executed and delivered into Escrow the documents listed in Section 3.6.1.

(B) Deposit of Funds. Developer shall have deposited or caused to be deposited all funds necessary for the Closing or otherwise required pursuant to this Agreement.

(C) Certificates of Good Standing; Authority. Developer shall have delivered to the City certificates of good standing, dated within thirty (30) days of the Closing, and resolutions or consent of Developer authorizing the acquisition of the Property.

(D) Evidence of Financing. Developer shall have submitted and the City Representative shall have approved Developer's Evidence of Financing in accordance with this Agreement.

(E) City Loan. Developer shall have satisfied all conditions precedent to the closing of the City Loan set forth in Attachment No. 6 of the City Loan Agreement.

(F) City Lender ~~Policy~~Policies. The City shall have received from Title Company an irrevocable commitment to issue the City Lender ~~Policy~~Policies upon the recordation of the City Deed of Trust and Seller Deed of Trust.

(G) Entitlements. The City shall have received evidence reasonably acceptable to it that Developer has obtained all Entitlements necessary for the construction of the Project, provided that ready-to-issue letters with respect to building permits shall be acceptable.

(H) Labor Compliance. The City shall have received evidence reasonably acceptable to it that the construction of the Project and the payment of all wages in connection therewith shall be in accordance with the provisions of California Labor Code §§ 1720 through 1861 (the "**Prevailing Wage Law**") , to the extent applicable to the Project.

(I) Insurance. Developer, at its cost, shall have procured and be maintaining in full force and effect insurance consistent with the Insurance Requirements, and Developer shall have provided the City with evidence of insurance.

(J) No Litigation. No litigation shall be pending or threatened by any third parties which seeks to enjoin the transactions contemplated herein or challenge or overturn the Entitlements.

(K) No Default. There shall exist no condition, event or act which would constitute an Event of Default under this Agreement, or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

(L) Representations and Warranties. All representations and warranties of Developer herein contained and contained in this Agreement shall be true and correct in all material respects as if made on and as of the date of Closing.

3.7.2 Developer's Conditions

Developer's obligation to close Escrow on the Property is conditioned upon the satisfaction or written waiver by Developer of each and every one of the conditions precedent described below (the "**Developer's Conditions Precedent to Closing**"), which are solely for the benefit of Developer, and which shall be satisfied or waived by the time periods provided for herein. Developer at its option may terminate this Agreement if any of the conditions precedent set forth below are not satisfied or waived in writing by Developer by the Outside Closing Date, subject to Events of Force Majeure:

(A) Execution of Documents. The City shall have executed and delivered into Escrow the documents listed in Section 3.6.2.

(B) No Litigation. No litigation shall be pending or threatened by any third parties which seeks to enjoin the transactions contemplated herein.

(C) No Default. There shall exist no condition, event or act which would constitute an Event of Default by the City under this Agreement, or which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

(D) Representations and Warranties. All representations and warranties of the City herein contained and contained in this Agreement shall be true and correct as if made on and as of the date of Closing.

(E) Developer Title Policy. The Title Company shall be irrevocably committed to issue the Developer Title Policy upon recordation of the Conveyance Documents.

(F) No Material Adverse Change. There shall not have occurred between the Effective Date and the Closing any material adverse change to the physical or environmental condition of the Property, except to the extent caused by Developer.

(G) No Leases or Parties in Possession. City shall have terminated any and all leases, licenses, and any other occupancy agreements affecting the Property effective no later than the Closing, and City shall have demonstrated the ability to deliver valid leasehold title to the City Property to Developer free and clear of any tenants, lessees, licensees or any third party occupants or parties in possession.

(H) Subordination Agreement. The City shall have executed and delivered to Escrow for recordation in the Official Records the Subordination Agreement(s) ~~as provided in the City Loan Agreement~~.

3.7.3 Close of Escrow.

Provided that both Developer's Conditions Precedent to Closing and the City's Conditions Precedent to Closing have been satisfied or waived in writing, the conveyance of the Property to Developer shall close on the date selected by Developer in the Closing Notice. The Closing shall occur on or before the Outside Closing Date, subject to Events of Force Majeure.

3.7.4 Failure of Conditions to Close of Escrow.

In the event any of the City's Conditions Precedent to Closing or the Developer's Conditions Precedent to Closing are not satisfied prior to the Outside Closing Date, then the respective rights of the parties shall be determined under Section 7.2.

3.8. Funding of the City Loan

The City shall not be obligated to disburse any proceeds of the City Loan until the Closing has occurred. No proceeds shall be disbursed from the Seller Loan.

3.9. Indemnification

Following the conveyance of the Property to Developer, Developer agrees to save, protect, defend, indemnify and hold harmless the City Indemnitees from and against any

and all Losses and Liabilities (including, without limitation, reasonable attorneys' and consultants' fees, investigation and laboratory fees, and remedial and response costs), but excluding the extent to which such Losses and Liabilities arises from the gross negligence or intentional misconduct of the City, the City Indemnitees, and/or their agents, representatives, invitees, licensees, consultants, and contractors, which may now or in the future be incurred or suffered by the City Indemnitees, by reason of, resulting from, in connection with, or arising in any manner whatsoever as a direct or indirect result of (i) the ownership (or possession) of all or any part of the Property for purposes of any Governmental Regulations regulating Hazardous Materials with respect to any environmental or other condition of the Property relating to any Hazardous Materials not existing before the Closing and first released onto the Property and/or occurring following the Closing and not caused by the gross negligence or willful misconduct City or City Indemnitees, (ii) any act or omission on the part of Developer, or its representatives, contractors, volunteers, or invitees with respect to the Property; (iii) the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person resulting from the negligence, intentional acts or omissions of Developer, its officers, agents, volunteers, contractors or employees, in the performance of its obligations under this Agreement, (iv) the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from the Property of any Hazardous Materials first released and/or occurring on the Property following the Closing and not caused by the gross negligence or willful misconduct City or City Indemnitees, (v) any environmental or other condition of the Property relating to any Hazardous Materials not existing before the Closing and first released and/or occurring following the Closing and not caused by the gross negligence or willful misconduct City or City Indemnitees. Developer's obligations under this Section shall survive the termination of this Agreement.

3.10. Occupants of the Property

The Property shall be conveyed to Developer free of any possession or right of possession by party except that of Developer.

3.11. Zoning of the Property

It is the responsibility of Developer, without cost to the City, to ensure that zoning of the Property and all applicable City land use requirements will be such as to permit development of the Project and the use, operation and maintenance of the Improvements in accordance with the provisions of this Agreement. Nothing contained herein shall be deemed to entitle Developer to any City permit or other City approval necessary for the development of the Property, or waive any applicable City requirements relating thereto. This Agreement does not (a) grant any land use entitlement to Developer, (b) supersede, nullify or amend any condition which may be imposed by the City in connection with approval of the development described herein, (c) guarantee to Developer or any other party any profits from the development of the Property, or (d) amend any City laws, codes or rules. This Agreement is not a development agreement as provided in Government Code Section 65864 et seq.

3.12. Release

On and after the Closing, Developer hereby waives, releases and discharges the City Indemnitees, from any and all present and future claims, demands, suits, legal and administrative proceedings, and from all liability for damages, losses, costs, liabilities, fees and

expenses (including, without limitation, attorneys' fees), including any special or consequential damages, arising out of or in any way connected with the City's or Developer's use, maintenance, ownership or operation of the Property, any Hazardous Materials on the Property, or the existence of Hazardous Materials contamination in any state on the Property, however the Hazardous Materials came to be placed there, except for those arising out of (i) the gross negligence, intentional misconduct, or fraud of the City or its employees, officers or agents, or (ii) any breach by City of this Agreement (including but not limited to breaches of representations and warranties of City expressly set forth herein) or the other agreements that City enters into pursuant to this Agreement, including but not limited to the Ground Lease ~~and~~, the City Loan Documents and the Seller Loan Documents, or (iii) any third party breach of contract claim or third party tort claims brought against Buyer for personal injury, wrongful death or personal property damage, in each case arising out of events occurring during City's ownership of the Property. Developer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." To the extent of the release set forth in this Section, Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

3.13. City Advance. Within five (5) business days of execution of this Agreement by Developer and City, Developer shall deliver to City the amount of $40,000 (the "**City Advance**"); provided that Developer shall receive a credit against the City Advance in the amount of $25,000, reflecting a previous payment from Developer to the City pursuant to the Exclusive Negotiating Rights Agreement entered into as of December 19, 2018 between Developer and City.

The City Advance shall be used by the City for reasonable costs and expenses in connection with this Agreement, the documents attached hereto, ancillary documents ~~and the City Loan Documents~~ and the transactions described therein (collectively, "**Consultant Costs**"). If, as of the earlier of the date of Closing or the Outside Closing Date, any portion of the City Advance has not been utilized for Consultant Costs, the remaining balance of the City Advance shall be returned to Developer.

If at any time the City reasonably expects to expend more than the City Advance for Consultant Costs prior to the earlier of the date of Closing or the Outside Closing Date, then the City shall provide written notice of such expenditure, which notice shall include a schedule of the Consultant Costs that City has incurred, an estimate of the additional Consultant Costs and the additional amount that City is requesting to pay for Consultant Costs. Developer shall either deposit such additional amount with the City, which amount shall be added to the City Advance, or shall provide any written objections within 5 business days of receipt of the request. If Developer provides a written objection, City and Developer shall meet within 5 business days of receipt of the written objection to discuss the requested amount and reach an agreement on the additional amount, and Developer shall deposit the agreed upon amount with the City within 2 business days of such agreement, which amount shall be added to the City Advance.

Notwithstanding anything to the contrary in this Agreement: (a) the City Advance shall be returned to Developer in connection with a termination of this Agreement arising from an Event of Default by the City; and (b) the City Advance shall be retained by City in connection with a termination of this Agreement arising from an Event of Default by Developer.

3.14. Parks and Dwelling Unit Tax Requirements

Developer acknowledges its obligation to comply with Santa Clara City Code Chapter 17.35 (or any successor statute).

Developer acknowledges its obligation to pay a dwelling unit tax per Santa Clara City Code Chapter 3.15 (or any successor statute). Said fees shall be due and payable upon application to the City for a building permit for the construction of any such dwelling unit.

4. FINANCING OF THE AFFORDABLE PROJECT

4.1. Sources of Construction Financing

Developer anticipates that the Development Costs will be financed in accordance with the Financing Summary. Developer shall be permitted to submit a revised Project Pro Forma and financing different from that described herein prior to Closing, which shall be subject to the review and approval of the City in accordance herewith.

4.2. The City Loan and Seller Loan

4.2.1 Closing

As of the Effective Date, the City hereby commits to providing the City Loan and the Seller Loan to Developer, subject to the terms and conditions set forth herein. Upon Closing, the City shall loan to Developer and Developer hereby agrees to borrow from the City, the City Loan and the Seller Loan in accordance with the City Loan Documents and the Seller Loan Documents.

4.2.2 Subordination ~~of City Loan Documents~~

Concurrently with Closing, the City shall enter into a Subordination Agreement with each Senior Lender.

5. EVIDENCE OF FINANCING; CONSTRUCTION CONTRACT

5.1. Evidence of Financing

Developer covenants and agrees to submit timely applications for the financing sources set forth in the Financing Summary, and to apply for the Tax Credits by the date set forth in the Schedule of Performance subject to Events of Force Majeure. Developer shall also demonstrate that the sources set forth in the Financing Summary, or such other financing as may be obtained by Developer and approved by the City, will constitute sufficient financing such that the City Representative is reasonably satisfied that the Project can be constructed and operated as proposed by Developer and will be financially feasible.

As a condition precedent to the Closing, Developer shall provide the City with copies of written, enforceable documentation reasonably acceptable to the City that Developer has or will have the right and access to the financing indicated in the Project Pro Forma (collectively, the "**Evidence of Financing**"), which Evidence of Financing shall include, without limitation, executed loan documents for all loans, executed contracts for any rental subsidies, a reservation of Tax Credits from TCAC, and executed syndication documents evidencing the Investor Limited Partner's capital obligations. Upon the Closing, the City shall be deemed to have approved all Evidence of Financing required hereunder.

5.2. Construction Budget; Construction Loan

Prior to the Closing, Developer shall submit to and obtain the City's approval of the Construction Budget, showing the projected predevelopment and construction costs of the Improvements and a sources-and-uses statement showing that the projected funding sources will be available as needed to fund all such projected costs at the time incurred.

The Construction Loan shall be secured by Developer's interest in the Project and the Improvements located thereon. In no event shall the Construction Loan be cross-defaulted with any loan secured by property other than the Project or assets attached to property other than the Project.

5.3. Construction Contract

If the City has not previously approved the Contractor, then at least 45 days prior to the Closing, Developer shall deliver to the City the name, resume and financial statement of the proposed Contractor for approval by the City, which shall not be unreasonably withheld, delayed or conditioned. At least 30 days prior to the Closing, Developer covenants and agrees to deliver to the City a fixed price or guaranteed maximum cost construction contract(s) (the "**Construction Contract**") for all of the Improvements for approval by the City, which shall not be unreasonably withheld, delayed or conditioned, which Construction Contract shall obligate the General Contractor to commence and complete the construction of those Improvements in accordance with the City Loan Agreement and at the price stated in the Construction Contract.

6. COVENANTS AND RESTRICTIONS

6.1. Use Covenants

As set forth in the City Loan Agreement, Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Project or any part thereof, that the Project shall be used, maintained and operated in compliance with the City Regulatory Agreement. Developer further covenants and agrees for itself and its successors and assigns that the Affordable Units shall be continuously occupied or held vacant and made available to Qualified Tenants at an Affordable Rent during the Affordability Period. All uses conducted on the Project, including, without limitation, all activities undertaken by Developer pursuant to this Agreement, shall conform to all applicable provisions of the Santa Clara City Code.

6.2. Nondiscrimination Covenants

As set forth in the City Loan Agreement, Developer covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any Unit or the Project nor shall Developer establish or permit any such practice or practices of discrimination or segregation with reference to the location, subtenants, or vendees of any Unit or in connection with the employment of persons for the construction, operation and management of the Project.

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

All deeds, rental agreements, leases, or contracts made or entered into by Developer as to the Units or the Project or any portion thereof, shall contain and be subject to the following nondiscrimination and nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

b. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in connection with the performance of this contract nor shall the contracting party himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference

to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, contractors, subcontractors or vendees with respect to the premises."

Notwithstanding the foregoing paragraph, with respect to familial status, the foregoing paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the foregoing paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the foregoing paragraph.

The covenants established herein shall, without regard to technical classification and designation, be binding on Developer and any successors in interest to the Project, or any part thereof, for the benefit and in favor of the City and its successors and assigns. The covenants against discrimination shall run with the land and remain in effect in perpetuity.

6.3. Social Services

As set forth in the City Loan Agreement, Developer covenants and agrees to provide a Social Services Plan for the Project to the City prior to Closing. Developer covenants and agrees to provide Social Services to the residents of the Project in accordance with the Social Services Plan.

6.4. Leases and Service Contracts.

From the Effective Date hereof until the Closing, City shall not enter into any lease, contract, license or other delegation of right with respect the City Property that would either survive Closing or would reasonably be expected to have an material effect on the condition of the City Property after Closing. City shall also not cause nor voluntarily permit, any new lien, encumbrance or any matter to cause the condition of title to be changed in any way.

6.5. Interim Operation of City Property.

From the Effective Date hereof until the Closing, City shall operate and maintain the City Property, and shall continue to maintain insurance for the City Property, in a manner generally consistent with the manner in which City has operated and maintained the City Property prior to the date hereof.

6.6. Cooperation.

The City shall reasonably cooperate with Developer and support and assist Developer in the processing and permitting of all project related Entitlements from the City and any and all other regulatory agencies with jurisdiction over the Freebird project. The City shall execute any and all applications, forms, and/or certificates as are reasonably required to process all entitlements, maps, and other approvals as reasonably requested by Developer. In the event that an appeal, requesting for rehearing, legal challenge, initiative and/or referendum is brought against any of the Entitlements, the City, at Developer's sole cost and expense, will cooperate with Developer in prosecuting an appropriate defense. Notwithstanding anything to the contrary herein, in no event shall the City be responsible for the cost of any legal fees necessary to defend the Freebird project. The City's compliance with this Section 6.6 shall not be deemed an approval of, or agreement with respect to, any such matters. The City's obligation to cooperate under this Section 6.6 shall be subject to the condition precedent that Developer provide all required information or documentation relating to such cooperation.

7. DEFAULTS, REMEDIES AND TERMINATION

7.1. Defaults - General

Subject to Events of Force Majeure and any other extensions of time approved in writing by the parties, failure or delay by either party to timely perform, comply with or observe any of the conditions, provisions, terms, covenants or representations of this Agreement, at the time indicated in this Agreement, shall constitute a default under this Agreement. In addition to the foregoing, the following shall constitute a default hereunder: (a) Developer fails to perform an act by the time set forth therefore in the Schedule of Performance subject to Events of Force Majeure; or (b) a petition is filed in bankruptcy, or other bankruptcy or similar proceeding is commenced by or against Developer under any applicable bankruptcy, insolvency or similar law now or hereafter in effect which is not released within ninety (90) days.

As provided hereinbelow, the party who so fails or delays must immediately commence to cure, correct or remedy such failure or delay, and shall complete such cure, correction or remedy with diligence. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in

giving such notice shall not constitute a waiver of any default, nor shall it change the date of default.

Except as required to protect against further damages, the injured party may not institute legal proceedings against the party in default until an Event of Default (as such term is hereinafter defined) has occurred. For purposes of this Agreement, an "**Event of Default**" for purposes of instituting legal proceedings by a non-defaulting party against the defaulting party shall mean that a default as described above has occurred, and such default has continued uncured for thirty (30) calendar days after notice thereof is received (as described in Section 8.1), or, if the default cannot reasonably be cured in thirty (30) calendar days, without the defaulting party commencing to diligently cure within thirty (30) calendar days after notice thereof in writing is received (as described in Section 8.1) by the injured party to the defaulting party; provided, however, that if a different period or notice requirement is specified for any particular default under any other provision of this Agreement, the specific provision shall control; and provided further, that if such failure is not reasonably capable of being cured within such thirty (30) day or different period, despite the defaulting party's good faith and timely efforts, such time as is reasonably necessary to complete such cure, but in no event shall such time exceed ninety (90) calendar days after notice thereof is mailed to the defaulting party. Notwithstanding anything to the contrary herein, a cure period shall not extend the timing requirements set forth in the Schedule of Performance or the Outside Closing Date.

7.2. Remedies and Termination

7.2.1. City's Remedies for Developer Event of Default; Liquidated Damages

If an Event of Default by Developer occurs (including any Event of Default in connection with the failure by Developer to achieve Closing), City, as its sole and exclusive remedy hereunder, shall have the right to terminate this Agreement by delivering written notice thereof to Developer, in which case (a) the City Advance shall be retained by the City as liquidated damages, and (b) Developer shall pay all escrow termination charges, in which event this Agreement shall be terminated.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREUNDER, DEVELOPER AND THE CITY AGREE THAT BASED UPON THE CIRCUMSTANCES NOW EXISTING, KNOWN AND UNKNOWN, IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO ESTABLISH THE CITY'S DAMAGE BY REASON OF DEVELOPER'S DEFAULT UNDER OR ELECTION TO TERMINATE THIS AGREEMENT. ACCORDINGLY, DEVELOPER AND THE CITY AGREE THAT IN THE EVENT OF A DEFAULT OR TERMINATION BY DEVELOPER UNDER THIS AGREEMENT, IT WOULD BE REASONABLE AT SUCH TIME TO AWARD THE CITY, AS THE CITY'S SOLE AND EXCLUSIVE REMEDY, "LIQUIDATED DAMAGES" EQUAL TO THE AMOUNT REPRESENTED BY THE CITY ADVANCE. SUCH LIQUIDATED DAMAGES SHALL BE THE CITY'S SOLE AND EXCLUSIVE REMEDY FOR DEVELOPER'S EVENT OF DEFAULT OR ELECTION TO TERMINATE AND DEVELOPER SHALL HAVE NO OTHER OR FURTHER OBLIGATION OR LIABILITY TO THE CITY ON ACCOUNT OF SUCH DEFAULT OR BREACH (EXCEPT FOR INDEMNITY OBLIGATIONS WHICH SURVIVE TERMINATION OF THIS AGREEMENT AND PAYMENT OF ESCROW TERMINATION CHARGES). THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO THE CITY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

INITIALS: CITY _____ DEVELOPER _____

7.2.2. Developer Remedies for City Event of Default

If an Event of Default by City occurs, Developer shall have the right to (a) terminate this Agreement by delivering written notice thereof to the City, in which case the City Advance shall be returned to Developer, and City shall pay all escrow termination charges, in which event this Agreement shall be terminated, or (b) seek specific performance of this Agreement.

7.2.3. Developer's Right to Terminate Prior to the Closing.

At any time prior to the Closing, Developer shall have the right to terminate this Agreement by delivering written notice thereof to the City, in which case (a) the City Advance shall be retained by the City as liquidated damages, and (b) Developer shall pay all escrow termination charges, in which event this Agreement shall be terminated.

7.2.4. Automatic Termination upon Outside Closing Date

Subject to Events of Force Majeure, this Agreement shall automatically terminate upon the Outside Closing Date in the event the Closing has not occurred by the Outside Closing Date, in which case (a) the City Advance shall be retained by the City as liquidated damages unless Closing has not occurred due to an Event of Default by the City, and

(b) Developer shall pay all escrow termination charges, in which event this Agreement shall be terminated.

7.3. Survival of Terms After Termination; Several Obligations After Closing

Following any termination, neither the City nor Developer shall have any further rights against or liability to the other under this Agreement. Developer's indemnification obligations under this Agreement shall remain in force following such termination with respect to any events occurring or claims accruing prior to the date of such termination.

7.4. Limitation on Liability

Neither Developer nor the City shall in any event be entitled to, and each hereby waives, any right to seek loss of profits, or any special, incidental or consequential damages of any kind or nature, however caused, from the other Party arising out of or in connection with this Agreement, even if the other Party has been advised of the possibility of the damages, and in connection with such waiver each Party is familiar with and hereby waives the provision of §1542 of the California Civil Code which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

7.5. Legal Actions

7.5.1. Institution of Legal Actions

Any legal actions hereunder may be instituted in the Superior Court of the County of Santa Clara, State of California, or in the Federal District Court in the Northern District of California.

7.5.2. Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

7.5.3. Acceptance of Service of Process

In the event that any legal action is commenced by Developer against the City, service of process on the City shall be made by personal service upon the City Representative, or in such other manner as may be provided by law.

In the event that any legal action is commenced by the City against Developer, service of process on Developer shall be made by personal service upon Developer (or upon a general partner, managing member or officer of Developer), or in such other manner as may be provided by law.

7.6. Rights and Remedies are Cumulative

To the extent permitted by law and except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same Event of Default or any other Event of Default by the other party.

7.7. Inaction Not a Waiver of Default

Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

7.8. Termination of this Agreement

Except for indemnification obligations of Developer hereunder, this Agreement shall terminate as of the Closing.

7.9. Attorneys' Fees

In any action between the Parties to interpret, enforce, reform, modify, rescind or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing Party in the action or other proceeding shall be entitled, in addition to damages, injunctive relief or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs, expert witness fees and reasonable attorneys' fees.

As used herein, the terms "attorneys' fees" or "attorneys' fees and costs" means the fees and expenses of counsel to the parties hereto (including, without limitation, in-house or other counsel employed by the City or Developer) which may include printing, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and others not admitted to the bar but performing services under the supervision of an attorney and fees and costs for expert witnesses. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred.

8. GENERAL PROVISIONS

8.1. Notices, Demands and Communications Between the Parties

All notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Agreement shall be in writing ("**Notice**") and shall be given by personal delivery, certified mail, return receipt requested, or overnight guaranteed delivery service and addressed as follows, or at any other address as that party may later designate by Notice:

To the City: City Manager's Office
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Manager

Copy to: City Attorney's Office
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Attention: City Attorney

Copy to: Carle, Mackie, Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401
Attention: Henry Loh II

To Developer: Freebird Development Company, LLC
1111 Broadway, Suite 300
Oakland, CA 94607
Attention: Robin Zimbler

Copy to: Gubb and Barshay LLP
505 14th Street, Suite 450
Oakland, CA 94612
Attention: Evan A. Gross

Any Notice shall be deemed received immediately if delivered by hand, shall be deemed received on the third day from the date it is postmarked if delivered by certified mail, and shall be deemed received on the date of delivery if sent via overnight courier. Notices sent by a party's attorney on behalf of such party shall be deemed delivered by such party.

8.2. Conflicts of Interest

No member, official or employee of the City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.

8.3. Warranty Against Payment of Consideration for Agreement

Developer warrants that it has not paid or given and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as project managers, architects, engineers, attorneys, and public relations consultants.

8.4. Nonliability of the City Officials and Employees

No member, official, employee, representative or agent of the City shall be personally liable to Developer, or any successor in interest thereof, in the event of any default or breach by the City under the terms of this Agreement.

8.5. Non-liability of Officers and Employees of Developer.

No non-managing member, limited partner, shareholder, officer, director, or employee of Developer shall be personally liable to City, or any successor in interest thereof, in the event of any default or breach by Developer under the terms of this Agreement.

8.6. Approvals by the City and Developer

Approvals required of the parties shall be given within the time set forth in this Agreement, the Schedule of Performance or, if no time is given, within a reasonable time. Wherever this Agreement requires the City or Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld, conditioned or delayed, unless expressly provided to the contrary.

8.7. Force Majeure

In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays or defaults due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God or any other deity; acts or threats of the public enemy or terrorists; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation, arbitration, administrative proceedings, initiatives and/or referenda, including challenges to the validity of this transaction or the Entitlements, or any element thereof, or any portion thereof; unusually severe weather; inability to secure necessary materials or tools; acts or failure to act of the City or any other public or governmental agency or entity (other than that acts or failure to act of the City shall not excuse performance by the City); an Economic Event, as defined and subject to the provisions stated below; or any other causes beyond the reasonable control or without the fault of the Party claiming an extension of time to perform or relief from default (each of the foregoing an "**Event of Force Majeure**" and collectively "**Events of Force Majeure**").

An "**Economic Event**" shall mean (a) a year-over-year decrease of 10% or more of average asking rent in Santa Clara County; (b) a year-over-year increase of 20% or more on construction costs in Santa Clara County; or (c) the difference of (I) the quotient of net operating income and total projects costs, minus (II) capitalization rates, is less than 0.5% with respect to the Project. Notwithstanding the first paragraph of this Section 8.7, (A) upon the occurrence of any Economic Event, the extension shall be for 12 months and (B) only one Economic Event shall cause an extension as an Event of Force Majeure, and any later Economic Events shall not cause any extension hereunder.

The lack of funding to complete the development of the Project shall not constitute an Event of Force Majeure pursuant to this Section 8.7. Except for one Economic Event as provided in this Section 8.7, Developer expressly assumes the risk of real estate market conditions, construction costs, interest rates, and other similar general economic circumstances

that may make funding and/or construction of the Project difficult, more expensive, or infeasible, whether or not such events or causes are foreseeable as of the date of this Agreement. Developer acknowledges and agrees that the provisions of this Section 8.7 shall not operate to excuse Developer from prompt payment when due under the City Loan Documents or the Seller Loan Documents.

An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) calendar days after it obtains actual knowledge of the event. Times of performance under this Agreement may also be extended in writing by mutual agreement between the City and Developer.

8.8. Interpretation

This Agreement shall be construed as a whole and in accordance with its fair meaning and as though both of the parties participated equally in its drafting. Captions and organizations are for convenience only and shall not be used in construing meaning.

8.9. Administration

This Agreement shall be administered by the City Representative following execution of this Agreement by the City. Whenever a reference is made in this Agreement to an action, finding or approval to be undertaken by the City, the City Representative or his or her designee are authorized to act on behalf of the City unless specifically provided otherwise or the context should require otherwise. The City Representative or his or her designee shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement and to negotiate and finalize all agreements and documents referred to herein on behalf of the City, so long as such actions do not substantially change the uses or development permitted on the Project, or add to the costs of the City as specified herein or as agreed to by the City Council or other authorized body. Notwithstanding the foregoing, the City Representative or his or her designee may in their sole and absolute discretion refer any matter to the City Council of the City and/or other authorized body for action, direction or approval.

8.10. Mutual Cooperation

Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement.

8.11. Independent Contractor

The parties agree that Developer, in the performance of this Agreement, is not and shall not act in the capacity of an agent, employee or partner of the City.

8.12. Time

Time is of the essence in the performance of this Agreement.

8.13. Third-Party Beneficiaries

This Agreement is made and entered into for the sole protection and benefit of the City, its successors and assigns, and Developer, its permitted successors and assigns, and no other person or persons shall have any right of action hereunder.

8.14. Restated Agreement

This Agreement amends and restated in its entirety the Original Agreement.

9. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement constitutes the entire understanding and agreement of the Parties. Two (2) duplicate originals of this Agreement shall be executed, each of which shall be deemed to be an original. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

Except as otherwise provided herein, this Agreement contains all of the understandings of the parties relating to the transactions contemplated by this Agreement, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and Developer. Notwithstanding the previous sentence, the parties agree that the City Representative, on behalf of the City, shall be entitled to extend the dates in the Schedule of Performance without the need for amending the Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the City and Developer have signed this Agreement as of the date and year first above written.

"**CITY**"

CITY OF SANTA CLARA,
a California municipal corporation

By: _____
Deanna J. Santana, City Manager

APPROVED AS TO FORM:

_____
Brian Doyle, City Attorney

[SIGNATURE PAGE TO AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT]

[PAGE 1 OF 2]

"**DEVELOPER**"

FREEBIRD DEVELOPMENT COMPANY, LLC, a California limited liability company

By: _____
Robin Zimbler, Manager

[SIGNATURE PAGE TO AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT]

[PAGE 2 OF 2]

ATTACHMENT A

LEGAL DESCRIPTION OF CITY PROPERTY

Real property in the City of Santa Clara, County of Santa Clara, State of California, being a portion of Parcel 3 described in the Deed to the County of Santa Clara, recorded February 2, 1962, in Book 5453 of Official Records, Page 669, Santa Clara County Records, described as follows:

Beginning at the most Northerly corner of Lot 30 as shown on that certain Map of Tract 2896 filed for record on May 11, 1961 in Book 132 of Maps, Pages 38 and 39, Santa Clara County Records.

Thence along the Northeasterly line of said Parcel 3, North 26° 09' 22" East, 14.01 feet; thence North 64° 01' 08" West, 147.59 feet; thence North 73° 07' 44" West, 63.92 feet; thence along a tangent curve to the left, having a radius of 60.00 feet; through a central angle of 62° 52' 15" for an arc length of 65.84 feet; thence South 44° 00' 01" West, 274.40 feet;

Thence along a tangent curve to the left, having a radius of 962.00 feet, through a central angle of 16° 07' 44" for an arc length of 270.81 feet, to the Northwesterly line of Lot 19 as shown on that certain Map of Tract 2992 filed for record on June 21, 1961, in Book 134 of Maps, Pages 26 and 27, Santa Clara County Records;

Thence along the Northwesterly and Northerly lines of Lots 19 through 25 of said Map of Tract 2992 and along the Northwesterly line of Lots 27 through 30 of said Map of Tract 2896, the following five courses:

1. Thence along a non-tangent curve to the right, having a radius of 1200.00 feet, whose center bears South 59° 19' 45" East through a central angle of 0° 10' 12" for an arc length of 3.56 feet;

2. Thence along a compound curve to the right, having a radius of 150.00 feet, through a central angle of 53° 58' 00" for an arc length of 141.28 feet;

3. Thence North 84° 48' 27" East, 213.98 feet;

4. Thence along a tangent curve to the left, having a radius of 225.00 feet, through central angle of 49° 33' 01" for an arc length of 194.58 feet;

5. Thence North 35° 15' 26" East, 197.75 feet, to a point of beginning.

APN: 224-37-068

ATTACHMENT B

SCHEDULE OF PERFORMANCE

Permit Application	July 31, 2021
Submit 4% CDLAC & TCAC applications	August 31, 2021
Outside Closing Date	April 30, 2022
Construction Start	[TBD]
Construction Completion	[TBD]
PIS	[TBD]
100% Occupied	[TBD]
8609 Certification	[TBD]

ATTACHMENT C

[RESERVED]

ATTACHMENT D

INSURANCE REQUIREMENTS

[attached]

ATTACHMENT E

FINANCING SUMMARY

ATTACHMENT F

PERMITTED EXCEPTIONS

1. Taxes and assessments, general and special, are currently not assessed because of a statutory exemption. Should the statutory exemption change, taxes may be levied against the land.
2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.
3. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

   Granted To : City of Santa Clara, a municipal corporation
   For : sanitary sewer purposes
   Recorded : June 26, 1961 in Book 5210 of Official Records, Page 674 under Recorder's Serial Number 2018642
   Affects : as described therein

4. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following Granted To : City of Santa Clara, a municipal corporation

   For : storm drainage purposes
   Recorded : June 26, 1961 in Book 5210 of Official Records, Page 677 under Recorder's Serial Number 2018643
   Affects : as described therein

5. An easement affecting that portion of said land and for the purposes stated herein and incidental purposes as provided in the following

   Granted To : City of Santa Clara, a municipal corporation
   For : storm drain purposes
   Recorded : September 14, 1961 in Book 5296 of Official Records, Page 608 under Recorder's Serial Number 2060294
   Affects : as described therein

6. Release and relinquishment of abutter’s or access rights to and from San Tomas Expressway, upon which premises abuts, as follows:

   Instrument : Grant Deed Individual
   To : County of Santa Clara
   Recorded : February 2, 1962 in Book 5453 of Official Records, Page 669 under Recorder's Serial Number 2135068

7. Terms and provisions as contained in an instrument,

Entitled : Assignment and Assumption Agreement (Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Low and Moderate Income Housing Projects)
Executed By : City of Santa Clara, City of Santa Clara Housing Authority and Redevelopment Agency of the City of Santa Clara
Recorded : June 23, 2011 in Official Records under Recorder's Serial Number 21216118

8. Terms and provisions as contained in an instrument,

Entitled : Grant Deed
Executed By : Redevelopment Agency of the City of Santa Clara and City of Santa Clara Housing Authority
Recorded : June 23, 2011 in Official Records under Recorder's Serial Number 21216119

ATTACHMENT G

GROUND LEASE

[attached]

ATTACHMENT H

MEMORANDUM OF GROUND LEASE

[Attached to Ground Lease]

ATTACHMENT I

CITY LOAN AGREEMENT

[attached]

ATTACHMENT J-1

CITY PROMISSORY NOTE

[attached]

ATTACHMENT J-2

SELLER PROMISSORY NOTE

[attached]

ATTACHMENT K-1

CITY DEED OF TRUST

[attached]

ATTACHMENT K-2

SELLER DEED OF TRUST

[attached]

ATTACHMENT L-1

CITY ASSIGNMENT OF RENTS AND LEASES

[attached]

ATTACHMENT L-2

SELLER ASSIGNMENT OF RENTS AND LEASES

[attached]

ATTACHMENT M

CITY ASSIGNMENT OF AGREEMENTS

[attached]

ATTACHMENT N

PROVISIONS FOR DISBURSEMENT AGREEMENT

1. Compliance With Previous Conditions. The conditions precedent set forth in Section 3.7.1 of this Agreement shall have been met on the date of the closing of the City Loan and shall continue to be met as of the disbursement date.

2. Evidence of Expenditure. Developer has submitted to the City a draw request including invoices, receipts, cancelled checks or other written documentation satisfactory to the City Representative evidencing Developer's incurrence of Eligible Project Costs, and such draw request has been approved in accordance with the Disbursement Agreement.

3. Approvals under City Loan Documents. Developer has obtained from the City all approvals for the development of the Project that are required to be obtained at the time of the disbursement request under the City Loan Documents.

4. No Default. There shall be no condition, event or act which would constitute an Event of Default by Developer under the City Loan Documents, the County Loan, the Construction Loan, or any other financing or contract applicable to the Project or which upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

5. Representations and Warranties. All representations and warranties of Developer set forth in Section 2.2 of this Agreement shall be true and correct in all material respects as if made on and as of the date of the disbursement.

6. No Stop Notice. No stop notice (whether bonded or not) shall have been served upon or otherwise delivered to Developer, Construction Lender or the City in connection with the construction of the Project or otherwise in connection with the City Loan, unless Developer shall have (or shall be with the proceeds of the requested disbursement) (a) paid and discharged the same, or (b) effected the release thereof by delivering to the Construction Lender a surety bond complying with the requirements of applicable Governmental Regulations for such release.

7. No Liens. No claim of lien, notice and claim of mechanic's lien or other similar document or instrument shall have been recorded against the Project or any portion thereof, unless Developer shall have (or shall with the proceeds of the requested disbursement) (a) paid and discharged the same, (b) effected the release thereof by delivering to the Construction Lender a surety bond complying with the requirements of applicable Governmental Regulations for such release, or by insurance over the same, or (c) caused the Title Company to commit in writing to issue a policy of title insurance showing such lien not to be an exception to title.

8. Satisfactory Progress. The Construction Lender shall be reasonably satisfied, based on its own inspections and/or other reliable information, that the Project is progressing satisfactorily and in conformance with this Agreement, all applicable

Governmental Regulations and all other requirements, including, without limitation, applicable wage requirements.

9. Governmental Regulations; Wages. There shall be no condition, event or act existing in connection with the Project which constitutes, or would, with the passage of time, constitute a material violation of any applicable Governmental Regulation, including, without limitation, applicable wage requirements.

ATTACHMENT O

[RESERVED]

ATTACHMENT P

CITY REGULATORY AGREEMENT

[attached]

ATTACHMENT Q

GRANT DEED

[attached]

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO
AND MAIL TAX STATEMENTS TO:
[Tax Credit Partnership]
c/o Freebird Development Company, LLC
1111 Broadway, Suite 300
Oakland, CA 94607
Attention: Robin Zimbler

Space above this line for Recorder's use

GRANT DEED
(Improvements)

THE UNDERSIGNED GRANTOR DECLARES:
DOCUMENTARY TRANSFER TAX $_____; CITY TRANSFER TAX $_____;
___ computed on full value of the property conveyed, or
___ computed on full value less value of liens or encumbrances remaining at time of sale, or
___ transfer is exempt from tax for the following reason: _____
in the City of Santa Clara, California.

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City of Santa Clara, a California municipal corporation (the "**Grantor**") hereby grants and conveys to [Tax Credit Partnership], a California limited partnership (the "**Grantee**"), the real property (the "**Property**") located in the City of Santa Clara, County of Santa Clara, State of California more particularly described in Exhibit A attached to this Grant Deed.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____.

CITY OF SANTA CLARA,
a California municipal corporation

By: _____
Deanna J. Santana, City Manager

APPROVED AS TO FORM:

_____
Brian Doyle, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20__, before me, _____, a Notary Public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

[Seal]

Exhibit A to Grant Deed

LEGAL DESCRIPTION OF PROPERTY

[Improvements legal description]

ATTACHMENT R

[RESERVED]

ATTACHMENT S

CITY ENVIRONMENTAL INDEMNITY

[attached]

Document comparison by Workshare 10.0 on Sunday, August 09, 2020 10:13:37 AM

Input:	
Document 1 ID	file://\\Worldox-SVR\COREDox\DATA\3761\0003\00648997.DOCX
Description	00648997
Document 2 ID	\\Worldox-SVR\COREDox\DATA\3761\0003\00576884.DOCX
Description	\\Worldox-SVR\COREDox\DATA\3761\0003\00576884.DOCX
Rendering set	Standard

Legend:	
Insertion	
~~Deletion~~	
~~Moved from~~	
Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	112
Deletions	23
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	135

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF SANTA CLARA, CALIFORNIA APPROVING AN AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SANTA CLARA AND MONROE STREET HOUSING PARTNERS, L.P., FOR THE PROJECT LOCATED AT 2330 MONROE STREET, SANTA CLARA, INCLUDING REVISING THE FUNDING SOURCE, INCREASE THE CITY'S LOAN AMOUNT, AND ADDING A SELLER TAKEBACK LOAN IN THE AMOUNT OF $5,200,000

BE IT RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, the City of Santa Clara (City) approved a disposition and development agreement (DDA) on January 28, 2020 with and Monroe Street Housing Partner, L.P. (Developer) for the development of a 65-unit affordable rental housing project at 2330 Monroe Street, Santa Clara (Project);

WHEREAS, at the time of the DDA approval, project financing assumed funding from the State's Mixed Income Program (MIP), including capital subsidy and state low income housing tax credits. While the State had previously indicated MIP funding would be allocated across four rounds annually, the State allocated all of the funds in the first two rounds of 2020, leaving the project with about a $5 million gap;

WHEREAS, the Developer proposed to address part of the financing gap through a Santa Clara County Housing Authority (SCCHA) Project Based Voucher award, which was received on May 19, 2020;

WHEREAS, the Project needs to demonstrate adequate funding sources in order to qualify for tax-exempt bonds and low-income housing tax credits, the Developer is requesting an additional $1.5 million of City capital loan, which would increase the City's loan amount from $5,000,000 to $6,500,000;

WHEREAS, the parties propose to amend the DDA to include a seller takeback loan in the amount of $5,200,000 to finance the capitalized rent under the Ground Lease. The $5,200,000 loan represents the appraised value of the site, which the Developer will pay to the City at

closing through execution of the $5,200,000 seller takeback promissory note;

WHEREAS, the parties desire to amend the original Disposition and Development agreement to revise the funding source to include a Santa Clara County Housing Authority (SCCHA) Project Based Voucher award, increase the City's loan amount from $5,000,000 to $6,500,000, and include a seller takeback loan in the amount of $5,200,000; and

WHEREAS, the Amended and Restated Disposition and Development Agreement is in the best interests of the City of Santa Clara as it will provide new affordable rental housing project at 2330 Monroe Street, Santa Clara.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY OF SANTA CLARA AS FOLLOWS:

1. That the City Council hereby finds that the above Recitals are true and correct and by this reference makes them a part hereof.

2. That the City Council hereby approves the Amended and Restated Disposition and Development Agreement, substantially in the form attached hereto as Exhibit "Amended and Restated Disposition and Development Agreement," subject to such minor and clarifying changes consistent with the terms thereof as may be approved by the City Attorney prior to execution thereof.

4. That the City Manager and/or designee is hereby authorized and directed to perform all acts to be performed by the City in the administration of the Amended and Restated Disposition and Development Agreement pursuant to the terms of the Amended and Restated Disposition and Development Agreement. The City Manager is further authorized and directed to perform all other acts, negotiate and enter into all other agreements (including a ground lease, loan agreements, deeds of trust, promissory notes, and affordable housing agreement) and execute all other documents and modifications to the Amended and Restated Disposition and

Development Agreement necessary or convenient to carry out the purposes of this Resolution and the Amended and Restated Disposition and Development Agreement.

5. Effective date. This resolution shall become effective immediately.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ___ DAY OF _____, 2020, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
1. Amended and Restated Disposition and Development Agreement

REPORT TO COUNCIL

SUBJECT

Action on CARES Act Funding in the Amount of $1.59 Million and San José Settlement Agreement Funds in the Amount of $5 Million and Related Budget Amendments [Council Pillars: Promote and Enhance Economic, Housing, and Transportation Development, and Deliver and Enhance High Quality Efficient Services and Infrastructure]

BACKGROUND

On August 19, 2020, the Economic Development, Communications and Marketing Council Committee (EDCM) heard presentations from staff regarding the potential use of two currently unallocated funds that are available for use by the City. The Committee provided recommendations to staff and the purpose of this report is to provide EDCM's recommendation and request full Council consideration on the allocation of funds.

Coronavirus Aid, Relief, and Economic Security (CARES) Act - $1.59 million

In June 2020, Santa Clara was notified of CARES Act funding of $1.59 million available through the State for COVID-19 related expenditures. On July 14, 2020, Council appropriated funds for programs and services undertaken by the City for COVID-19 activities.

The CARES Act funds may only be used for COVID-19 related expenses which:

- Are necessary expenditures incurred due to the public health emergency with respect to COVID-19
- Were not accounted for in the budget most recently approved as of March 27, 2020 (date of enactment of the CARES Act)
- Were incurred during the period between March 1, 2020 and December 30, 2020

Eligible expenses for CARES Act funds include payment for:

- Medical expenses
- Public health expenses including communication and enforcement of public health orders, disinfection of public areas, distribution of medical, and protective supplies
- Payroll expenses for public safety, and those dedicated to responding to COVID-19
- Actions to facilitate compliance of public health measures such as food delivery to residents and vulnerable populations, care for homeless, technological improvements including telework capabilities for public employees, and paid sick and family leave for public employees
- Provision of economic support including small business grants to reimburse the costs of business interruption caused by closures, payroll support programs, and unemployment insurance costs

The staff report for the EDCM item (#20-323) is attached to this Report. The staff report suggested three potential programs for funding and requested EDCM input. EDCM provided feedback on the potential use of funds.

City of San José Santana West Settlement Agreement - $5 million
The January 2018 Santana West Settlement Agreement with San José provided that the City of San José would pay the City of Santa Clara $5,000,000 within ten days of the issuance of a grading/building permit for the Santana West project which would be used for affordable housing and transportation improvements in the City. The City has received funds from San José and the approval of the recommended action would appropriate those funds.

The staff report for the EDCM item (#20-216) is attached to this Report. The staff report suggested four potential projects for funding and requested EDCM input. Three potential transportation projects and one affordable housing project were identified. Following discussion, EDCM provided recommendations of the use of funds as described below.

DISCUSSION

CARES ACT
EDCM recommended that the CARES Act funds be targeted to small business programs, the City's food distribution program, Emergency Rental Assistance program, and, if possible, assisting residents with the new increases in utility rates.

While utility assistance would not be CARES Act eligible, the Council could use a portion of the CARES Act funds to reimburse the General Fund for eligible COVID-19 related expenses incurred such as public safety costs, the Small Business Assistance Grant program, food distribution program, and/or other COVID-19 related costs. The reimbursement of these General Fund expenses could allow General Fund funds to be freed for the desired purpose.

Based upon EDCM feedback, staff recommends the following allocation of the $1.59 million of CARES Act funds:

Food Distribution Program	$200,000
Small Business Assistance Grant Program	$390,000
Reimburse General Fund for past eligible COVID-19 expenses (allowing for General Fund funding of utility credit/rebate)	$1,000,000
TOTAL	**$1,590,000**

Food Distribution Program: Funding of $200,000 would be used to support the City's food distribution program for youth in partnership with the school district.

Small Business Assistance Grant: Funding of $390,000 would be used to provide grants to small businesses and non-profits that have been negatively impacted by the COVID-19 pandemic through the Small Business Assistance Program managed by the City Manager's Office. The original program allowed grant funds to be used solely for payroll and rent expenses. Staff plans to expand the program to also include expenditures related to improvements necessary to operate and comply with Health Orders to maintain social distancing.

Reimburse the General Fund for COVID-19 Expenses: In FY 2019/20, $3.0 million was transferred from the General Fund to the Other City Department Operating Grant Trust Fund to cover COVID-related expenses. It is recommended that $1.0 million of the CARES Act funds by used to partially reimburse the General Fund for the expenses incurred.

With an available $1,000,000 from the reimbursement to the General Fund for COVID-related expenses, the City would be able to provide a credit/rebate that reduces the solid waste bill equal to six months of the rate increase for residential customers (August through January 2021). The value of sixth month credit/rebate would be applied on a one-time basis to the bill for garbage, recycling, and yard waste collection services.

Given the complexity of the billing system, the fastest and simplified approach is a one-time credit/rebate equal to the six-month rate increase for each customer based on the size of bin, etc. Due to limitations in the City's billing software, a clean-up campaign rebate ($0.23 cents a month) would not be included. Also, some multi-family accounts would only receive a rebate for the garbage portion of the bill. This rebate would be targeted for the October through January billing, with a future credit for the August and September months that have already been collected.

Commercial and industrial business customers would continue to receive the $3.00 monthly credit as previously approved by Council.

SANTANA WEST SETTLEMENT

EDCM heard a presentation about four potential transportation and affordable housing projects. These projects totaled $13.4 million and included:

- Benton Bicycle Lanes - Fund the study, design, and construction of bicycle facilities on Benton Street between Lincoln Street and Dunford Way (3.39 miles). $1.4 million
- El Camino Real Bicycle Lanes - Design and construct separated bikeways on El Camino Real (4.29 miles). $5.5 million
- Lick Mill Boulevard Pedestrian Beacons Upgrade - Upgrade the two existing pedestrian flashing beacons on Lick Mill Boulevard between Tasman Drive and Montague Expressway and upgrade one curve warning sign. $0.5 million
- 1601 Civic Center Drive - Financial participation with Charities Housing on a 1.41-acre site. Together with other public financing such as Measure A, $6 million from the City would allow for a 100% low-income family housing development with approximately 120 units.

Following the presentation and discussion, EDCM recommended that the Santana West Settlement Agreement funds be allocated for the following programs:

Benton Bicycle Lanes (project described above)	$1,400,000
Lick Mill Boulevard Pedestrian Beacons Upgrade (project described above)	$500,000
1601 Civic Center Drive Low-Income Housing Development (This funding represents a portion of the $6 million described above and would be set aside in reserve to support this low-income housing development)	$1,600,000

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Emergency Rental Assistance Program (described below)	$1,500,000
TOTAL	**$5,000,000**

Additional funds for the Emergency Rental Assistance Program (ERAP) will allow for a second round of assistance. ERAP assists households at 60% AMI or below with up to three consecutive months of rental assistance. The goal of the program is to prevent low-income households from becoming homeless. Currently, it appears that 254 applicants meet eligibility requirements which would exhaust the existing funding. Adding $1.5 million to the program could provide assistance to an additional 200+ households.

ENVIRONMENTAL REVIEW

The action being conserved does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(4 in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

FISCAL IMPACT

As part of the Monthly Financial Status Report for May 2020 presented and approved by the City Council on July 14, 2020, the $1.59 million of CARES Act funding was appropriated in the Other City Departments Operating Grant Trust Fund. Of this amount, $590,000 is recommended to support the Food Distribution Program and the Small Business Assistance Program. The remaining $1.0 million of CARES Act funding is recommended to reimburse the General Fund for COVID-19 related expenses. A budget amendment to transfer $1.0 million from the Other City Departments Operating Grant Trust Fund to the General Fund is included in Attachment 3 to reflect this reimbursement. This $1.0 million reimbursement allows the City to provide residential customers with credits/rebates on their solid waste bill; an amendment is included in Attachment 3 to transfer $1.0 million from the General Fund to the Solid Waste Fund for this program.

Attachment 3 also includes amendments allocating the $5.0 million Santa West Settlement Reserve funds to the following: $1.9 million to two projects in the Streets and Highways Capital Fund; $1.6 million to a Civic Center Drive Reserve in the City Affordable Housing Fund; and $1.5 million to the Emergency Rental Assistance Program in the Housing and Urban Development Fund.

COORDINATION

This item has been coordinated with Department of Finance and City Attorney’s Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

1. Approve the allocation of CARES Act funds in the amount of $1,590,000 to the Food Distribution Program, the Small Business Assistance Grant Program, and to reimburse General Fund for past COVID-19 related expenses;

2. Approve the allocation of Santana West Settlement Agreement funds in the amount of $5 million for the Benton Bicycle Lane project, Lick Mill Boulevard Pedestrian Beacons Upgrade, 1601 Civic Center Drive Low Income Housing Development, and Emergency Rental Assistance Program;
3. Approve the use of $1.0 million from the General Fund to provide residential customers with a credit/rebate on their solid waste utility bill;
4. Approve the related FY 2020/21 budget amendments in the General Fund, the Solid Waste Fund, the Other City Departments Operating Grant Trust Fund, the City Affordable Housing Fund, the Streets and Highways Capital Fund, and the Housing and Urban Development Fund as described in Attachment 3; and
5. Direct the City Manager to implement a credit/rebate program consistent with the staff report that reduces the solid waste bill for residential customers.

Reviewed by: Ruth Mizobe Shikada, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. EDCM Committee Report (RTC #20-323)
2. EDCM Committee Report (RTC #20-216)
3. FY 2020/21 Budget Amendments

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1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

20-323 **Agenda Date: 8/19/2020**

REPORT TO ECONOMIC DEVELOPMENT, COMMUNICATIONS, AND MARKETING COMMITTEE

SUBJECT

Update on the Small Business Assistance Grant Program and Discussion on Potential Allocation of $1.59 Million in CARES Act Funds

BACKGROUND

At the April 8, 2020 City Council meeting, the Council approved allocating $500,000 in one-time funds to create a Small Business Assistance Grant Program (Grant Program) to provide financial assistance to non-profits and small businesses in the City of Santa Clara (City) that have been negatively impacted by the novel coronavirus (COVID-19) pandemic. A key objective of the program was a quick City response of grant funds to small businesses.

The approved Grant Program provides one-time grants to small businesses and non-profits with at least one but no more than 25 full-time employees who demonstrate a loss of income due to COVID-19. Grants of $10,000 were made available for qualified small businesses and non-profits that have been deemed non-essential under the County of Santa Clara Public Health Department Order dated March 16, 2020. Grants of $5,000 were available for qualified small businesses and non-profits that have been deemed essential under the same order. Grant funds may be used for payroll expenses or lease payments.

The Grant Program began accepting applications at 10:00 a.m. on Friday, April 17, 2020. The City received more than 200 applications within the first ten minutes and has received over 800 applications to date. Staff began reviewing applications in the order they were received on Friday, April 17, 2020, and continued reviewing applications over that initial weekend. Applications were reviewed for completeness and program eligibility. As of Monday, April 20, 2020, 70 applications had been reviewed, and 33 were approved and processed for awards totaling $240,000. The remaining applications were either pending based on submission of additional information or did not meet program requirements (e.g., businesses not in Santa Clara or businesses that did not have a business license).

Due to continuing demand, the City Council approved two additional rounds of funding, once on April 28, 2020 and once on May 26, 2020, totaling $600,000. These actions brought the overall Grant Program funding to $1.1 million. To support the continued growth of the program's grant fund, the City partnered with the Silicon Valley Central Chamber of Commerce (Chamber) to fundraise. The combined effort of the City and Chamber has generated an additional $50,000.

To date, the City has awarded 155 grants for a total of $1,110,000 (Attachment 1) and staff is continuing to review applications while we await additional funds from donors. With the additional

funds raised by the City and the Chamber, we will only be able to award no more than 10 grants to Santa Clara businesses.

DISCUSSION

The City recently received an allocation of CARES Act funding from the State totaling $1,590,000. The funds can be used to cover unbudgeted expenses incurred from March 1, 2020 through December 31, 2020 to address the public health and public safety impacts of COVID-19.

There is a continuing need for assistance in Santa Clara. The CARES Act funding is not targeted toward any specific COVID-impacted group. Staff believes that there are three principal areas in which this funding may be used. They include:

1. Provide additional funding for the Small Business Grant program. There are many businesses that applied for the grant funds that were not funded because the program reached its capacity at $1.1 million. With the additional $50,000 in private funding, an additional 5 to 10 businesses could qualify for assistance.

2. Develop a new program to provide assistance to businesses to address COVID-related safety improvements. In addition to social distancing, many businesses are also required to install improvements/safety features for the protection of workers and patrons. These improvements include plexiglass and other barriers.

3. Provide additional funding for the Emergency Rental Assistance Program (ERAP). This $1.3 million program was launched in June 2020 to provide rental assistance to qualifying Santa Clara residents impacted by COVID-19. Many jobs were lost due to the pandemic, making it difficult for residents to make lease payments. ERAP provides assistance of up to 3 months' rent to qualifying participants. Staff anticipates being able to serve approximately 250 households with the existing funding.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is not a fiscal impact associated with this report.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

20-323 **Agenda Date: 8/19/2020**

REPORT TO ECONOMIC DEVELOPMENT, COMMUNICATIONS, AND MARKETING COMMITTEE

SUBJECT

Update on the Small Business Assistance Grant Program and Discussion on Potential Allocation of $1.59 Million in CARES Act Funds

BACKGROUND

At the April 8, 2020 City Council meeting, the Council approved allocating $500,000 in one-time funds to create a Small Business Assistance Grant Program (Grant Program) to provide financial assistance to non-profits and small businesses in the City of Santa Clara (City) that have been negatively impacted by the novel coronavirus (COVID-19) pandemic. A key objective of the program was a quick City response of grant funds to small businesses.

The approved Grant Program provides one-time grants to small businesses and non-profits with at least one but no more than 25 full-time employees who demonstrate a loss of income due to COVID-19. Grants of $10,000 were made available for qualified small businesses and non-profits that have been deemed non-essential under the County of Santa Clara Public Health Department Order dated March 16, 2020. Grants of $5,000 were available for qualified small businesses and non-profits that have been deemed essential under the same order. Grant funds may be used for payroll expenses or lease payments.

The Grant Program began accepting applications at 10:00 a.m. on Friday, April 17, 2020. The City received more than 200 applications within the first ten minutes and has received over 800 applications to date. Staff began reviewing applications in the order they were received on Friday, April 17, 2020, and continued reviewing applications over that initial weekend. Applications were reviewed for completeness and program eligibility. As of Monday, April 20, 2020, 70 applications had been reviewed, and 33 were approved and processed for awards totaling $240,000. The remaining applications were either pending based on submission of additional information or did not meet program requirements (e.g., businesses not in Santa Clara or businesses that did not have a business license).

Due to continuing demand, the City Council approved two additional rounds of funding, once on April 28, 2020 and once on May 26, 2020, totaling $600,000. These actions brought the overall Grant Program funding to $1.1 million. To support the continued growth of the program's grant fund, the City partnered with the Silicon Valley Central Chamber of Commerce (Chamber) to fundraise. The combined effort of the City and Chamber has generated an additional $50,000.

To date, the City has awarded 155 grants for a total of $1,110,000 (Attachment 1) and staff is continuing to review applications while we await additional funds from donors. With the additional

This item is to receive input from the Committee in order to provide an recommendation to the full Council for action to fund: (1) Small Business Grant Program, (2) New Program for Businesses to install COVID-related safety improvements, and/or (3) additional funding for the Emergency Rental Assistance Program.

Reviewed by: Ruth Mizobe Shikada, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Small Business Grant Program Grantees - As of August 7, 2020

1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

20-216 **Agenda Date: 8/19/2020**

REPORT TO ECONOMIC DEVELOPMENT, COMMUNICATIONS, AND MARKETING COMMITTEE

SUBJECT

Discussion on Use of the $5 Million San Jose Settlement Funds Designated for Affordable Housing and Transportation

BACKGROUND

In January 2018, the City of Santa Clara (City) and the City of San Jose reached a settlement over their disputes related to the Santana West Development Project, located in San Jose and near Santa Clara city limits.

As part of the Santana West Development Project Settlement Agreement, the City received $5 million from the City of San Jose for affordable housing and transportation improvements in Santa Clara.

DISCUSSION

Staff will discuss the City's affordable housing and transportation needs, and is requesting that the Economic Development, Communications, and Marketing Committee (Committee) provide a recommendation to the City Council based on the potential project list for the Santana West Development Project Settlement Affordable Housing and Transportation Funds. The provided project list included below exceeds the $5.0 million available and it is acknowledged that the Committee may recommend other projects within the City's housing and transportation needs.

Potential Project List

Affordable Housing

Charities Housing has purchased a 1.41-acre site (61,419 square feet) located at 1601 Civic Center Drive in Santa Clara. The settlement fund is necessary to provide financial participation in the project with the expectation that Charities would also arrange for a variety of other public and private sources of financing, including Measure A funding. Early yield studies have shown that with $6 million from the City, the 100% low-income family housing development could achieve approximately 120 units, with a building height of 6 stories and one level of underground parking.

Transportation

El Camino Real Bicycle Lanes - $5.5 million
Benton Bicycle Lanes - $1.4 million
Lick Mill Boulevard Ped Beacons Upgrade - $0.5 million

Total - $7.4 million

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is no fiscal impact to the City other than administrative staff time.

PUBLIC CONTACT

Public contact was made by posting the Economic Development, Communications, and Marketing Committee agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov> or at the public information desk at any City of Santa Clara public library.

RECOMMENDATION

Provide a recommendation to the City Council based on the potential project list for the Santana West Development Project Settlement Affordable Housing and Transportation Funds.

Reviewed by: Ruth Mizobe Shikada, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

FY 2020/21 Budget Amendments

General Fund (001)

Department	Source of Funds	Use of Funds	Explanation
Transfer From Other City Departments Operating Grant Trust Fund	1,000,000		Recognizes a transfer from the Other City Departments Operating Grant Trust Fund to reimburse the General Fund for a portion of past COVID-19 related expenses. In FY 2019/20, the General Fund transferred $3.0 million to the Other City Departments Operating Grant Trust Fund to support COVID-19 related expenses.
Transfer to the Housing and Urban Development Fund		1,500,000	Establishes a transfer to the Housing and Urban Development Fund for the Emergency Rental Assistance Program. This action is supported by the Santana West Settlement.
Transfer to the City Affordable Housing Fund		1,600,000	Establishes a transfer to the City Affordable Housing Fund. These funds will be set aside in a reserve for the a potential Civic Center Drive low-income family housing development. This action is supported by the Santana West Settlement.
Transfer to the Solid Waste Fund		1,000,000	Establishes a transfer to the Solid Waste Fund to allow the City to provide credits/rebates for residential customers' solid waste utility bills.
Transfer to the Streets and Highways Capital Fund		1,900,000	Establishes a transfer to the Streets and Highways Capital Fund for the Benton Bicycle Lanes project ($1.4 million) and the Lick Mill Boulevard Pedestrian Beacons Upgrade project ($0.5 million). This action is supported by the Santana West Settlement.
Santana West Settlement Reserve		(5,000,000)	Decreases the Santana West Settlement Reserve to offset the actions recommended above.
	1,000,000	**1,000,000**	

FY 2020/21 Budget Amendments

Solid Waste Fund (096)

Department	Source of Funds	Use of Funds	Explanation
Transfer From the General Fund / Solid Waste Program	1,000,000	1,000,000	Recognizes and appropriates a $1.0 million transfer from the General Fund to allow the City to provide residential customers a credit/rebate on their solid waste bill.
	1,000,000	**1,000,000**	

Other City Departments Operating Grant Trust Fund (101)

Department	Source of Funds	Use of Funds	Explanation
Transfer to the General Fund		1,000,000	Establishes a transfer to the General Fund to reimburse the General Fund for a portion of past COVID-19 related expenses.
Non-Departmental - COVID-19		(1,000,000)	Reduces the COVID-19 appropriation to fund the transfer to the General Fund. This transfer will reimburse the General for a portion of past COVID-19 related expenses.
	-	**-**	

City Affordable Housing Fund (165)

Department	Source of Funds	Use of Funds	Explanation
Transfer From the General Fund / Civic Center Drive Reserve	1,600,000	1,600,000	Recognizes a transfer from the General Fund and sets aside the funding in the Civic Center Drive Reserve for the potential Civic Center Drive low-income family housing development. This action is supported by the Santana West Settlement.
	1,600,000	**1,600,000**	

FY 2020/21 Budget Amendments

Streets and Highways Capital Fund (533)

Department	Source of Funds	Use of Funds	Explanation
Transfer from the General Fund / Lick Mill Boulevard Pedestrian Beacons Upgrade Project	500,000	500,000	Establishes a transfer from the General Fund and appropriates the funding to the Lick Mill Boulevard Pedestrian Beacons Upgrade project. This action is supported by the Santana West Settlement.
Transfer from the General Fund / Benton Bicycle Lanes Project	1,400,000	1,400,000	Establishes a transfer from the General Fund and appropriates the funding to the Benton Bicycle Lanes project. This action is supported by the Santana West Settlement.
	1,900,000	**1,900,000**	

Housing and Urban Development Fund (562)

Department	Source of Funds	Use of Funds	Explanation
Transfer From the General Fund / Emergency Rental Assistance Program	1,500,000	1,500,000	Recognizes a transfer from the General Fund and appropriates the funding to the Emergency Rental Assistance Program. This action is supported by the Santana West Settlement.
	1,500,000	**1,500,000**	

REPORT TO COUNCIL

SUBJECT

Action on an Emergency Ordinance Establishing a Temporary Limit on Third-Party Food Delivery Service Fees During the COVID-19 Emergency [Council Pillar: Promote and Enhance Economic, Housing and Transportation Development]

BACKGROUND

The City of Santa Clara has been severely impacted by the ongoing COVID-19 Public Health Emergency (COVID-19) and proclaimed a Local State of Emergency on March 11, 2020. The effects on the global economy and supply chains are impacting many Bay Area small businesses and restaurants. Santa Clara is committed to supporting small businesses and restaurants during this time.

On April 8, 2020, the City Council approved the Small Business Assistance Grant Program to offer immediate financial assistance to nonprofits and small businesses to aid in maintaining their business and workforce during the County of Santa Clara's Shelter in Place Order of March 16, 2020. On June 9, 2020 the City Council passed a resolution to support outdoor dining at local restaurants to benefit from a free and streamlined permitting process, and on July 28, the City Manager in her role as Director of Emergency Services, authorized consideration of specific land uses for the duration of the Local State of Emergency for small businesses to operate outdoors.

Under the July 13, 2020 Statewide Public Health Officer Order, indoor dining, movie theaters, family entertainment centers and additional indoor operations in all counties, including Santa Clara County are not allowed, amid a statewide spike on COVID-19 cases, restricting restaurants to outdoor dining, pick-up and delivery.

While some restaurants can pivot and offer outdoor dining, the primary source of revenue continues to come from takeout orders which often requires the businesses to rely on third-party food delivery service companies for convenient, contactless delivery of restaurant meals. City staff has conducted restaurant visits and learned that although some restaurants had agreements established with the third-party companies prior to the pandemic, the fees, at times as high as 30%, are causing an additional burden for businesses during this economic crisis.

DISCUSSION

During the COVID-19 Public Health Emergency, restaurants and consumers are relying on third-party delivery services like UbertEats/Postmates, DoorDash/Caviar, and Grubhub for convenient, contactless delivery of restaurant meals. Several fees are associated with using the food delivery services, some paid by the restaurant, and others paid directly by the consumer. Total fees paid by restaurants typically range from 20%-30%. Fees that companies charge restaurants typically include a service fee, delivery fee and credit card fee. Fees that consumers pay include taxes and delivery

fees, as well as optional gratuity.

Staff conducted research and found that numerous other cities have established temporary caps on fees that third-party delivery service companies can charge to support local restaurants during the COVID-19 Public Health Emergency. California cities that have capped delivery service fees at 15 percent (15%) include Los Angeles, San Francisco, Berkeley, San Leandro, Santa Cruz and Fremont. The cities of Los Angeles, and Berkeley also require that drivers receive the entire gratuity paid by the customer. All cities have set the duration of the cap on third-party food delivery service fees to be either the remainder of the local emergency after which dine-in services will resume, or until 90 days after the same.

It should be noted that establishing a cap on third-party delivery service companies can pose potential unintended impacts such as: 1) higher delivery costs for customers; 2) reduced marketing services for restaurants; 3) reduced delivery areas; 4) reduced company workforce and 5) reduced driver pay.

The ordinance presented for City Council's consideration would cap the per-order fees at 15%, deem it unlawful to retain any portion of the driver's gratuities, and require the third-party delivery service to disclose the fees charged, the gratuities paid, and any discounts offered by the restaurants; which will accomplish the legitimate public purpose of easing the financial burden on struggling restaurants during this emergency, while not unduly burdening third-party platforms.

Social distancing and Risk Reduction Health Orders are expected to remain in force for the foreseeable future, threatening loss of employment to more residents and loss of income. As state anti-gouging laws do not provide any protections in the market for food delivery services, staff is recommending that the City Council adopt an emergency ordinance to enable the City to ensure continuity of essential food services for its residents and to protect against predatory activity during the period of emergency, which will go into effect immediately upon adoption.

As the ordinance would be effective immediately upon adoption, the ordinance also provides that third-party delivery service companies would not be in violation of the ordinance if between September 2, 2020 and September 9, 2020 it imposes a fee that totals more than 15 percent of the purchase price, provided it refunds the portion of the fee that exceeds 15 percent of the purchase price to the restaurant prior to September 16, 2020. If approved by Council, staff would work on a communications plan to widely advise our small business and third-party providers notice that this local regulation is in place.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no fiscal impact associated with this action.

COORDINATION

This report has been coordinated with the City Attorney's Office and the Finance Department.

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PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

ALTERNATIVES

1. Adopt an Emergency Ordinance Establishing a Temporary Limit on Third-Party Food Delivery Service Fees During the COVID-19 Emergency.
2. Do not adopt an Emergency Ordinance Establishing a Temporary Limit on Third-Party Food Delivery Service Fees During the COVID-19 Emergency.

RECOMMENDATION

Alternatives 1:
Adopt an Emergency Ordinance Establishing a Temporary Limit on Third-Party Food Delivery Service Fees.

Reviewed by: Ruth Mizobe Shikada, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Emergency Ordinance Establishing a Temporary Limit on Third-Party Food Delivery Service Fees

ORDINANCE NO. _____

AN EMERGENCY ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ESTABLISHING A TEMPORARY LIMIT ON THE CHARGES IMPOSED BY THIRD-PARTY FOOD DELIVERY SERVICES ON COVERED ESTABLISHMENTS DURING THE COVID-19 EMERGENCY

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City of Santa Clara ("City") may make and enforce all regulations and ordinances using its police powers;

WHEREAS, Santa Clara Charter Section 811 authorizes the adoption of an emergency ordinance to protect the public peace, health or safety, where there is a declaration of the facts constituting the urgency;

WHEREAS, international, national, state and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19;

WHEREAS, on March 11, 2020, pursuant to "The Code of the City of Santa Clara, California" ("SCCC") section 2.140.060, City Manager Deanna Santana, as the City's Director of Emergency Services, signed a Proclamation of Local Emergency to help ensure the City's continuity of essential operations and services available for the City of Santa Clara to respond to the COVID-19 emergency;

WHEREAS, on March 16, 2020, the County of Santa Clara joined Contra Costa, Marin, San Francisco, San Mateo counties and the City of Berkeley on a legal order directing their respective residents to shelter at home for three weeks beginning March 17, 2020 ("Shelter-in-Place Order"). The Shelter-in-Place Order also requires all businesses except

essential businesses as described in the Order to cease all activities at facilities located within the County except minimum basic operations and prohibits all public and private gatherings of any number of people except for limited purposes as well as all non-essential travel;

WHEREAS, the County of Santa Clara's Public Health Officer has issued subsequent orders that continue to restrict movement and public and private gatherings as set forth in the Health Officer Risk Reduction Order; including restrictions on restaurant dining;

WHEREAS, on July 13, 2020, the Statewide Public Health Officer issued an order closing all indoor restaurant dining;

WHEREAS, restricting restaurants to pick-up or delivery offerings, and limited outdoor dining with decreased capacity, has placed a sudden and severe financial strain on many restaurants;

WHEREAS, capping the per-order fees at 15 percent will accomplish the legitimate public purpose of easing the financial burden on struggling restaurants during this emergency while not unduly burdening third-party platforms; and

WHEREAS, the adoption of this emergency ordinance is necessary for the immediate preservation of the public peace, health, and safety. Social distancing and Risk Reduction Health Orders are expected to remain in force for the foreseeable future, threatening loss of employment to more residents and loss of income. As state anti-gouging laws do not provide any protections in the market for food delivery services, this ordinance is necessary to enable the City to ensure continuity of essential food services for its residents and to protect against predatory activity during the period of emergency.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: Temporary Limit on Third Party Food Delivery Service Charges

(A) It shall be unlawful for a Third-Party Food Delivery Service to charge a Covered Establishment a fee per online order for the use of its services that totals more than 15 percent of the purchase price of each online order.

(B) It shall be unlawful for a Third-Party Food Delivery service to reduce the compensation rates paid to the delivery service driver or retain any portion of amounts designated as a tip or gratuity. Any tip or gratuity shall be paid by the Third-Party Delivery Service, in its entirety, to the person delivering the food or beverages.

SECTION 2: **Definitions**.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section.

(a) "Covered Establishment" means a restaurant that offers, in a single commercial transaction over the internet, whether directly or through a Third-Party Food Delivery Service, the sale and same-day delivery of food to customers from one or more retail locations within the Santa Clara city limits.

(b) "Online order" means the menu price of an online order. Such term therefore excludes taxes, gratuities and any other fees that may make up the total cost to the customer of an online order.

(c) "Third-Party Food Delivery Service" means any website, mobile application or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from no fewer than 20 separately owned and operated Covered Establishments.

SECTION 3: Disclosures. Each receipt generated by the Third-Party Food Delivery Service for either the customer or Covered Establishment shall clearly state the fees charged, the gratuities paid, and any discounts offered by the Covered Establishment.

SECTION 4: Enforcement.

A violation of this article shall subject the violator to the following:

1. An action in the Superior Court of the State of California to recover all actual damages resulting from a violation of this article.
2. Reasonable attorneys' fees and costs awarded by a court to a plaintiff that prevails in an action against a Third-Party Food Delivery Service. If plaintiff fails to prevail against a Third-Party Food Delivery Service, a court may award reasonable attorneys' fees and costs to the Third-Party Food Delivery Service upon a determination by the court that the plaintiff's action was frivolous.
3. A civil action alleging a violation of any provision of this article shall commence only after the following requirements have been met:
    a. Written notice is provided by the Covered Establishment to the Third-Party Food Delivery Service of the provisions of the article alleged to have been violated and the facts to support the alleged violation; and
    b. The Third-Party Food Delivery Service is provided 15 days from the date of

the written notice to cure any alleged violation.

4. Notwithstanding any provision of this Code, or any other ordinance to the contrary, no criminal penalties shall attach for violation of this article.
5. A Third-Party Food Delivery Service shall not be found in violation of this ordinance if between September 2, 2020 and September 9, 2020 it imposes a fee per online order for the use of its services that totals more than 15 percent of the purchase price of such online order, provided it refunds the portion of the fee that exceeds 15 percent of the purchase price to the Covered Establishment prior to September 16, 2020.

SECTION 5: Immediate threat to health, safety and welfare. Based on the findings set forth herein, this ordinance is adopted pursuant to City Charter Section 811 and is required to address a current and immediate threat to public health, safety, and welfare. The City Council has determined that this ordinance is necessary to ensure continuity of essential food services for its residents and to protect against predatory activity during the period of the COVID-19 Emergency.

SECTION 6: **Savings clause**. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 7: This Ordinance shall not be codified in the Santa Clara City Code.

SECTION 8: **Effective date**. This Ordinance shall become effective immediately upon its adoption pursuant to Section 811 of the Charter of the City of Santa Clara and shall remain in effect until the City Council rescinds this Ordinance or terminates the proclamation declaring the COVID-19 Local Emergency, as extended.

PASSED FOR THE PURPOSE OF PUBLICATION this XX day of XXXXXX, 2020, by the following vote:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference: None

REPORT TO COUNCIL

SUBJECT

Discussion and direction on the possible relocation of Santa Clara County Courthouse located at 1095 Homestead Road, Santa Clara CA 95050 (APN 269-22-94) including authorizing discussions with the State of California Judicial Council [Council Pillar: Enhance Community Engagement and Transparency]

BACKGROUND

On August 18, 2020, a written petition was submitted by Mr. Dan Ondrasek requesting to initiate the relocation of the County of Santa Clara Courthouse (1095 Homestead Road). At that meeting, the Council engaged in discussion and unanimously approved the following motion:

> *Direct staff to draft/send a letter to State of California regarding relocation of the Courthouse and provide an informational update memo to Council*.

On August 25, 2020 under the Public Presentation section of the Council agenda, Mr. Bob O'Keefe requested that the Council schedule a future discussion regarding entering into negotiations for the relocation of the courthouse relocation. Upon the Public Presentation request, the Council unanimously approved the following motion:

> *Place the Courthouse Relocation on the September 1, 2020 Council meeting agenda for discussion*.

DISCUSSION

At the meeting staff will be providing an update on the Downtown Specific Plan accomplishments and current activities including:

- Actions on the Downtown street grid street system;
- Funding commitments for the Downtown consultant contract; and,
- Creation of a downtown Task Force and recent Task Force activities.

Staff will also provide a summary of the City's request of the Judicial Council to respond to the City's interest of the relocation of the Santa Clara County Courthouse. For the purpose of transparency, a proposed draft letter dated September 2, 2020 is included in this City Council agenda packet for the public to be aware in advance of the intended letter to be sent to the State of California (Attachment 1). In the letter, the City inquires whether the Judicial Council would be willing to discuss moving the courthouse from its current location in compliance with Government Code 11011, Proprietary state

lands; review; report of excess; sale or other disposition effective January 1, 2020 (Attachment 2).

RECOMMENDATION

There is no staff Recommendation.

Approved By: Deanna Santana, City Manager

ATTACHMENTS

1. Letter to the State Judicial Council
2. Government Code 11011

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City of Santa Clara
The Center of What's Possible

Office of the City Manager

September 2, 2020

Ms. Mary Bustamante
Manager, Real Estate
Judicial Council of California, Facilities Services
455 Golden Gate Avenue, 8th Floor
San Francisco, CA 94102-3688
Via email: csc@jud.ca.gov

Re: Property Located at 1095 Homestead Road-- APN 269-22-94

Dear Ms. Bustamante,

The City of Santa Clara, with strong community support, has endeavored to redevelop and restore our Downtown. The purpose of this letter is for the City of Santa Clara to inquire about the Judicial Council's position and interest in either selling or redeveloping the State-owned property located at 1095 Homestead Road, Santa Clara CA 95050 (See Attached: APN 269-22-94). This action would assume and require the relocation of the Santa Clara County Courthouse which is currently operating at the property.

As background, the City of Santa Clara is working on a Precise Plan land use planning process for the Downtown, including the State-owned property. The Precise Plan Downtown area under evaluation is bounded by Lafayette Street, Benton Street, Madison Street and Homestead Road (See Attached). Through the Precise Plan process, the City anticipates updates to its land use plan and the development of design guidelines with the intent of fostering the redevelopment of the Downtown area. As a property owner in the Downtown Precise Plan area, the State is an important stakeholder for the City's planning process.

While the City has not yet finalized a vision for the Downtown, through a series of community workshops conducted by the City of Santa Clara and staff interactions with community members, many community members have expressed a strong desire to promote redevelopment of the Downtown area to become an active destination within the community that supports various "placemaking" activities. Community members have specifically called for the relocation of the Santa Clara County Courthouse and for the City of Santa Clara to entertain acquisition of the State's property to allow redevelopment of the property for future downtown uses consistent with an active, urban downtown environment that will be focal point destination for the Santa Clara community.

I would like to confirm the process for making available this property for sale or redevelopment. Generally, the City of Santa Clara understands the following:

DRAFT

- The property is owned by the State of California and under the jurisdiction of the Judicial Council;
- The Santa Clara County Superior Court must first agree to its relocation for courthouse operations; and,
- Comply with Government Code 11011, Proprietary state lands; review; report of excess; sale or other disposition effective January 1, 2020.

If this is in error, and there is a more direct path to begin discussions, the City would like to understand the Judicial Council's position regarding a possible sale of the property and clarification on the process required.

I want to thank you in advance for your time on reviewing the City of Santa Clara's interest in discussing this Judicial Council's position on this property. This is of great community interest, and the City would like to fully understand the Judicial Council's position in redeveloping and/or selling the site as the Downtown project progresses. I look forward to your response and can be contacted at 408-615-2211.

Sincerely,

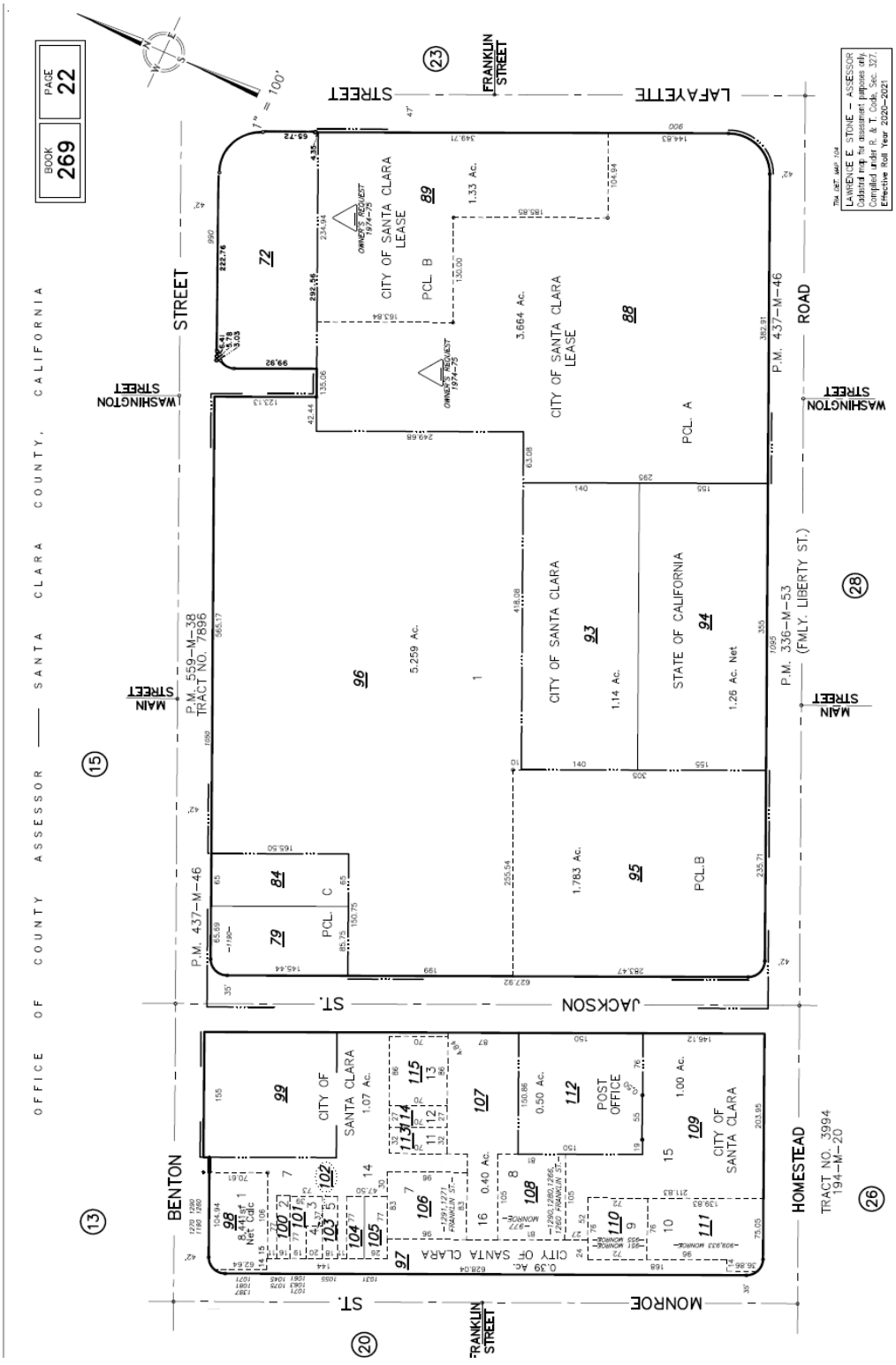
Deanna J. Santana
City Manager

Attachments:
1. Map of APN 269-22-94
2. Precise Plan Downtown area under evaluation is bounded by Lafayette Street, Benton Street, Madison Street and Homestead Road

cc: Santa Clara Mayor and City Council
Ms. Rebecca J. Fleming, CEO, Superior Court of California, County of Santa Clara, Administration

DRAFT

Attachment 1

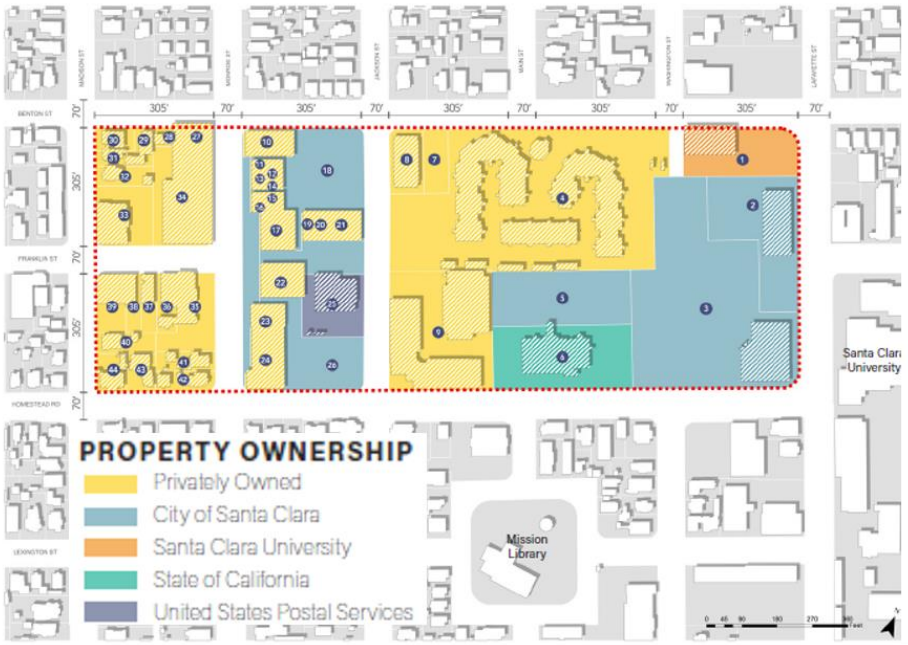


City of Santa Clara
The Center of What's Possible

Downtown Precise Plan

Plan Area Boundary

- Bounded by Benton, Madison, Lafayette, and Homestead
- Area ~ 24.1 acres
- Privately Owned Property – 18.1 acres
  - Multiple property owners
  - Mix of older and newer housing, retail, and commercial uses
- City Owned Property – 6 acres
  - Older strip mall development, office building, parking lots



KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 3. Executive Department (Refs & Annos)
Part 1. State Departments and Agencies (Refs & Annos)
Chapter 1. State Agencies (Refs & Annos)
Article 1. General (Refs & Annos)

West's Ann.Cal.Gov.Code § 11011

§ 11011. Proprietary state lands; review; report of excess; sale or other disposition

Effective: January 1, 2020
Currentness

(a) On or before December 31 of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director of that department, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of this code and Section 31104.3 of the Public Resources Code before recommending or taking any action on surplus land, and shall also circulate the reports to all state agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state that involve the exchange of surplus lands for lands listed in those reports.

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(e) Except as otherwise provided by any other law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g)(1) Except as otherwise specified by law, the net proceeds received from any real property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, established pursuant to subdivision (f) of Section 20 of Article XVI of the California Constitution, as approved by the voters at the March 2, 2004, statewide primary election, until the time that the bonds issued pursuant to the Economic Recovery Bond Act (Title 18 (commencing with Section 99050)), approved by the voters at the March 2, 2004, statewide primary election, are retired. Thereafter, the net proceeds received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.

(2) For purposes of this section, net proceeds shall be defined as proceeds less any outstanding loans from the General Fund, or outstanding reimbursements due to the Property Acquisition Law Money Account for costs incurred before June 30, 2005, related to the management of the state's real property assets, including, but not limited to, surplus property identification, legal research, feasibility statistics, activities associated with land use, and due diligence.

(h) The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account, which is hereby created in the State Treasury, for the purposes of supporting the management of the state's real property assets.

(i) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services upon appropriation by the Legislature.

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(j) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(k)(1) The disposition of a parcel of surplus state real property, pursuant to Section 11011.1, made on an "as is" basis shall be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements and to Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) If the disposition of a parcel of surplus state real property, pursuant to Section 11011.1, is not made on an "as is" basis and close of escrow is contingent on the satisfaction of a local governmental land use entitlement approval requirement or compliance by the local government with Division 13 (commencing with Section 21000) of the Public Resources Code, the execution of the purchase and sale agreement or of the exchange agreement by all parties to the agreement shall be exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) For purposes of this subdivision, "disposition" means the sale, exchange, sale combined with an exchange, or transfer of a parcel of surplus state property.

Credits

(Added by Stats.1951, c. 1573, p. 3573, § 1. Amended by Stats.1959, c. 993, p. 3015, § 1; Stats.1965, c. 371, p. 1521, § 117; Stats.1969, c. 1024, p. 1993, § 10; Stats.1973, c. 886, p. 1637, § 1; Stats.1978, c. 807, § 1, eff. Sept. 18, 1978; Stats.1986, c. 1481, § 1; Stats.1994, c. 978 (S.B.403), § 1; Stats.2004, c. 227 (S.B.1102), § 25, eff. Aug. 16, 2004; Stats.2005, c. 74 (A.B.139), § 28, eff. July 19, 2005; Stats.2009-2010, 2nd Ex.Sess., c. 6 (A.B.8), § 1, eff. May 21, 2009; Stats.2019, c. 466 (A.B.1824), § 1, eff. Jan. 1, 2020.)

Notes of Decisions (1)

West's Ann. Cal. Gov. Code § 11011, CA GOVT § 11011
Current with urgency legislation through Ch. 31 of 2020 Reg.Sess. Some statute sections may be more current, see credits for details.

End of Document

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20-794 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Update on City Council and Stadium Authority Staff Referrals [Council Pillar: Enhance Community Engagement and Transparency]

BACKGROUND AND DISCUSSION

During Council and Stadium Authority meetings, the City Council or Stadium Authority Board provide direction on policy issues or refer information requests to staff for follow-up.

The purpose of the City Council and Stadium Authority Referrals Update is to provide the City Council/Stadium Authority Board and the public a current status report. Completion of the referrals may be communicated by various means such as: Report to Council, Information Memorandum provided through a Council Agenda, City Manager Biweekly Report/Blog, or a City Manager/Executive report out during a future Council meeting.

The Referrals list will be published in the Council agenda packet under the “City Manager/Executive Director Report” section of the Council Agenda. Reports will include both open and closed referrals.

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CITY COUNCIL AND STADIUM AUTHORITY STAFF REFERRALS FOR FOLLOW-UP/ACTION

Updated 8/25/20

SCSA
SANTA CLARA STADIUM AUTHORITY

	Date Assigned	Source	Referral Description	Assigned Department	Projected Completion	Completed
1.	8/18/20	Council Meeting	Staff to send a letter to State of California regarding the relocation of the Courthouse (include in upcoming agenda as an informational memo)	City Manager/ Community Development	TBD	
2.	8/18/20	Council Meeting	Staff to return on 10/13/20 with options regarding Worker Retention Ordinance in relation to the Pandemic	City Manager/ City Attorney	10/13/20	
3.	7/14/20	Council Meeting	Garbage Rates – explore long-term rate assistance programs for solid waste	Public Works	Jan/Feb 2021	
4.	7/14/20	Council Meeting	Return after Council break with an informational update on the progress of the implementation of the Tasman East Specific Plan.	Community Development	8/25/20	
5.	4/7/20	Council Meeting	Pruneridge Ave. Complete Streets Plan Project – Council voted to postpone awarding the contract and requested staff bring it back to Council when there was more certainty about public outreach efforts in relation to COVID-19 shelter in place order	Public Works	TBD	
6.	1/28/20	Council Meeting	Respond via City Manager's Biweekly Report when information on alternate leasing plan for department stores at Related Santa Clara Project will return to Council	City Manager	Dec 2020	
7.	1/28/20	Council Meeting	VTA Transit Oriented Communities referred to Council Priority Setting Session on 1/30 and 1/31 to provide information on staff impact. (At the Priority Setting Session, Council requested that staff schedule a study session.)	City Manager/ Public Works	TBD	
8.	11/12/19	Council Meeting	Provide update on the International Association of Science Parks (IASP) Conference in 2021 to the Economic Development, Communications and Marketing Committee	City Manager	TBD	**8/24/20**
9.	10/29/19	Council Meeting	Provide options for the $750,000 commitment from Levy for community enrichment	City Manager	Fall 2020	
10.	9/24/19	Council Meeting	Staff to review the potential for rebates for the purchase of electric bicycles	SVP	Fall 2020	
11.	9/24/19	Council Meeting	Staff to review the Ordinance and enforcement of illegal street food vendors	Police	Oct/Nov 2020	
12.	8/27/19	Council Meeting	Agendize Korea Town designation for a future Council meeting and return with information about outreach and what Sunnyvale is doing on El Camino Real	City Manager	Nov 2020	
13.	7/9/19	Council Meeting	Add Lawn Bowl Clubhouse Project to a future agenda and return with information on costs of installation of module. Staff to notify Lawn Bowl Club of Council meeting date so they may update Council on their fundraising efforts.	Parks & Rec	Fall 2020	
14.	7/9/19	Council Meeting	Update on age-friendly activities per commission annual Work Plan	Parks & Rec	Fall 2020	
15.	6/4/19	Council Meeting	Regarding bicycle and scooter share devices: staff to bring back final plan for Council approval – Council asked staff to further look into items such as outreach events, insurance, speed monitoring, data, fee structure and drop-off locations (Per the City Attorney's Office this item was placed on hold – pending the outcome of other public entities' litigation)	Public Works	TBD	

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CITY COUNCIL AND STADIUM AUTHORITY STAFF REFERRALS FOR FOLLOW-UP/ACTION

Updated 8/25/20

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SANTA CLARA STADIUM AUTHORITY

	Date Assigned	Source	Referral Description	Assigned Department	Projected Completion	Completed
16.	4/30/19	Council Meeting	Number of public transit riders for large stadium events	49ers Stadium Manager	TBD	
17.	4/30/19	Council Meeting	Ask Stadium Manager for analysis to support their position that reducing the cost of parking would likely adversely impact public transit ridership, resulting in more cars on the roads	49ers Stadium Manager	TBD	
18.	11/27/18	Council Meeting	TID: Reconciliation of reserve fund; disclosure of legal fees as determined by the performance auditor; and develop a subsidy policy	City Manager	Fall 2020	
19.	10/9/18	Council Meeting	Dedicate Jerry Marsalli Community Center at grand opening of the facility	Parks & Rec	TBD	
20.	10/2/18	Council Meeting	Amend sign ordinance to prohibit signs on public property	Parks & Rec/ City Attorney	Fall 2020	
21.	3/13/18	Council Meeting	Develop a Stadium Authority Financial Reporting Policy in conjunction with the Stadium Authority Auditor and the external auditor	Finance	Winter 2020	

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COMPLETED 2020
CITY COUNCIL AND STADIUM AUTHORITY STAFF REFERRALS FOR FOLLOW-UP/ACTION
Updated 8/25/20

SCSA
SANTA CLARA STADIUM AUTHORITY

	Date Assigned	Source	Referral Description	Assigned Department	Projected Completion	Completed	Resolution
1.	6/23/20	Council Meeting	Study Session on November 2020 Ballot Measures – return to Council on 7/14/20 with ballot language for TOT	City Manager	7/14/20	7/14/20	Reported at Council Meeting
2.	6/23/20	Council Meeting	Create an Ad Hoc Committee on Human Rights/Racial Inequalities in Santa Clara	City Manager	7/14/20	7/14/20	Reported at Council Meeting
3.	6/23/20	Council Meeting	Solid Waste Rate Increase – return on 7/14/20 with a report on rates and review options for rate assistance	Public Works	7/14/20	7/14/20	Reported at Council Meeting
4.	1/28/20	Council Meeting	Return in March with a Resolution in support of 2020 Census (due to the impact of COVID-19 the U.S. Census has been extended through 10/31/20)	City Manager	7/14/20	7/13/20	Reported at Council Meeting
5.	2/11/20	Council Meeting	Written Petition Received from Alan Todd Bevis Regarding Traffic Calming on Briarwood; Council requested staff to bring this item back to Council	Public Works	7/7/20	7/7/20	Reported at Council Meeting
6.	10/22/19	Council Meeting	Staff to return with budget appropriations in the budget cycle to improve the gazebo area at Mission Branch Library	Finance	6/23/20	6/23/20	Reported at Council Meeting
7.	7/10/18	Council Meeting	Annual update on PD community engagement efforts	Police	6/23/20	6/23/20	Reported at Council Meeting
8.	6/9/20	Council Meeting	City Code requirements related to outdoor dining – review permit application processes to streamline review and approval process	Community Development	TBD	6/16/20	Email sent to Council from City Manager on 6/16/20
9.	6/9/20	Council Meeting	Santa Clara Convention Center 3rd Quarter Report – why are audiovisual expenses higher than expected? Are the food expenses high due to providing food for the Senior Food Distribution and/or School Lunches? (Respond via email or Council Informational Memo)	City Manager	6/9/20	6/9/20	Email response sent to Council on 6/9/20 (via Council question/response process); also posted on website with agenda packet
10.	4/28/20	Council Meeting	Invite Supervisor Susan Ellenberg to provide a COVID-19 update at the 5/12 City Council Meeting	City Manager	6/9/20	6/9/20	Reported at Council Meeting
11.	12/17/19	Council Meeting	Initiate discussions with Santa Clara Unified School District regarding Healthier Kids Foundation services (staff met with SCUSD on 2/5/20 to initiate discussions; will return to Council in June with a transition plan)	Parks & Rec/ City Manager	5/26/20	5/26/20	Reported at Council Meeting

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	Date Assigned	Source	Referral Description	Assigned Department	Projected Completion	Completed	Resolution
12.	4/7/20	Council Meeting	Legislative Advocacy Positions - staff to return with information regarding the City's position on: Redistricting after census, public records and campaign reform (Council to provide questions in advance)	City Manager	TBD	5/26/20	Per City Manager, no questions from Council
13.	4/28/20	Council Meeting	Nonprofits may apply for the City's Small Business Assistance Grant and business license simultaneously	City Manager	5/12/20	5/12/20	Reported at Council Meeting
14.	10/8/19	Council Meeting	Staff to review the expenditure limits for November 2020 – to designate appropriately the expenditure limit for Districts vs. At-Large seats	City Clerk/City Manager	Spring 2020	5/12/20	Reported at Council Meeting
15.	2/11/20	Council Meeting	Update and Direction on Commercial Cannabis-Related Items – staff to return with an Ordinance to ban commercial cannabis	City Manager/ City Attorney	4/28/20	4/28/20	Reported at Council Meeting
16.	10/29/19	Council Meeting	Regarding GIS system, provide biannual updates via the City Manager/Executive Director Report at Council meeting	IT	Spring 2020	4/28/20	Reported at Council Meeting
17.	12/10/19	Council Meeting	Add labor peace provision to GreenWaste Agreement	Public Works	Spring 2020	4/16/20	Email sent to Council on 4/16/20 re: labor peace
18.	2/11/20	Council Meeting	Discussion and Direction on the Santa Clara Tourism Improvement District (TID) Assessment Formula and Transient Occupancy Tax – staff to return with a district management plan reflecting a 1.5% TID assessment with option to increase to 2% as more info about alternate funding is received	City Manager/ Finance	May 2020	4/8/20	Reported at Council Meeting
19.	3/17/20	Council Meeting	Staff to review/return with options for temporary moratorium on evictions for renters as well as information to landlords on evictions during the COVID-19 emergency	Community Development/ City Attorney	3/24/20	4/7/20	Reported at Council Meeting
20.	11/19/19	Council Meeting	Exclusive Negotiations Agreement with Republic Metropolitan LLC for the site located at 500 Benton Street – return to Council in 120 days with a term sheet, a drinking well study and discussion on the preservation of historical railroad property	City Manager	3/31/20	4/7/20	Reported at Council Meeting
21.	3/5/20	Stadium Authority	Stadium Budget – City Attorney to return with legal opinion regarding options on approving the Stadium Budget	City Attorney	March 2020	3/24/20	Reported at Council Meeting
22.	3/17/20	Council Meeting	Review food options for at-risk children and families	City Manager	TBD	3/19/20	Email sent to Council from City Manager on 3/19/20

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CITY COUNCIL AND STADIUM AUTHORITY STAFF REFERRALS FOR FOLLOW-UP/ACTION
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	Date Assigned	Source	Referral Description	Assigned Department	Projected Completion	Completed	Resolution
23.	4/9/19	Council Meeting	Street Racing and Sideshows: take steps to make the 2004 ordinance operative and increase enforcement within existing resources	Police	2/25/20	2/25/20	Reported at Council Meeting
24.	1/31/20	Council Priority Setting Session	Public Works to prepare a letter for Mayor to send to Chappie Jones (a positive letter requesting San Jose to keep the City informed if they have specifics on an Innovation Zone project for Santa Clara to consider that does not impact residents)	Public Works	TBD	2/12/20	Staff prepared letter for Mayor's signature; signed letter mailed on 2/12/20
25.	12/3/19	Council Meeting	Council Policy 030 – Adding an Item on the Agenda – return to Council with amended policy replacing the word consensus with Council action	City Attorney/ City Manager	2/11/20	2/11/20	Reported at Council Meeting
26.	11/12/19	Council Meeting	Provide a comparison of the district assessment/TOT with other cities – are there other cities that also have the same type of district assessment? What are the Pros and Cons of the TID assessment change taking into consideration overall TOT? How do the TID Hotels feel about an increase in TOT (potentially 3%)	City Manager	2/11/20	2/11/20	Reported at Council Meeting
27.	11/12/19	Council Meeting	Destination Marketing Organization – Report back to Council in 90 days regarding CEO search; include detailed timeline for hiring of CEO	City Manager	2/11/20	2/11/20	Reported at Council Meeting
28.	11/5/19	Council Meeting	Schedule a Study Session regarding the pros and cons of General Obligation (GO) bonds and parcel tax	Finance	2/11/20	2/11/20	Reported at Council Meeting
29.	4/25/19	Council Meeting	City Clerk Haggag to work with City Attorney's Office on next steps for enforcing the Dark Money Ordinance and the Lobbyist Ordinance	City Attorney/ City Clerk	2/10/20	2/10/20	
30.	1/14/20	Council Meeting	Michael Fisher spoke during Public Comment about a small development project he undertook at his residence on Civic Center Drive. He had complaints about the process and the requirements that were placed on the project. (Assistant City Manager Manuel Pineda and Public Works Director Craig Mobeck met with Mr. Fisher on 1/24/20; City Manager provided a verbal report at the 1/28/20 Council Meeting; Assistant City Manager Manuel Pineda will follow up with a letter to Mr. Fisher.)	City Manager/ Public Works	February 2020	2/4/20	2/4/20 a letter was sent to Mr. Fisher; he continues to correspond with staff via email
31.	6/4/19	Council Meeting	Councilmember O'Neill to provide more clarity on Innovation Zone referral (on 11/19/19 Council deferred this item to the January Council Priorities and Goal Setting Sessions).	City Manager	1/30 – 1/31/20	1/31/20	Discussed at Council Priority Setting Session

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CITY COUNCIL AND STADIUM AUTHORITY STAFF REFERRALS FOR FOLLOW-UP/ACTION
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SANTA CLARA STADIUM AUTHORITY

	Date Assigned	Source	Referral Description	Assigned Department	Projected Completion	Completed	Resolution
32.	1/14/20	Council Meeting	Communications Consultant Agreements – Staff to add language to agreements to have agreements reviewed annually	City Manager	TBD	1/29/20	Language has been added to agreements re: annual review
33.	1/14/20	Council Meeting	Architectural Review Ordinance – Continued to add new language to Ordinance for certain projects that would trigger Public Hearing	City Attorney/ Community Development	1/28/20	1/28/20	Reported at Council Meeting
34.	7/9/19	Economic Development, Communications and Marketing Committee	Procure additional resources to support communications and marketing of local activities to enhance community's awareness of municipal services and activities	City Manager	January 2020	1/14/20	Reported at Council Meeting
35.	12/10/19	Council Meeting	False Alarm Ordinance – Continue item to 1/14/20 for staff to conduct broader public outreach and gather public input	Police/ City Attorney	1/14/20	1/14/20	Reported at Council Meeting
36.	12/10/19	Council Meeting	False Alarm Ordinance – Police Department to follow up with resident regarding financial assistance for fees	Police	1/14/20	1/14/20	Reported at Council Meeting
37.	12/17/19	Council Meeting	Community Room Study Session – Continue item to 1/14/20 and return with responses to Suds Jain's questions regarding reservation process, rates for facilities at Oracle and houses across the street behind Triton, and provide a master list of facilities and who to contact for reservation	Parks & Rec/ City Manager	1/14/20	1/14/20	Reported at Council Meeting
38.	9/18/19	Economic Development, Communications and Marketing Committee	The Committee referred for Council consideration a request to the City Council to terminate the billboard agreement with All Vison, LLC (staff in process of analyzing further)	City Manager	January 2020	1/9/20	Letter sent from City Manager to All Vision on 1/9/20; Memo to Council from City Attorney on 1/9/20

20-709 **Agenda Date: 9/1/2020**

REPORT TO COUNCIL

SUBJECT

Tentative Meeting Agenda Calendar (TMAC) [Council Pillar: Enhance Community Engagement and Transparency]

BACKGROUND AND DISCUSSION

The purpose of the TMAC is to provide the public advanced notifications of tentative dates of Council Study Sessions, Joint Council/Commission meetings, as well as Council Public Hearing and General Business agenda items. It is important to note that the TMAC is a Tentative Calendar planning tool and reports listed are subject to change due to Public Hearing publication requirements and agenda management.

The TMAC will be published weekly no later than Friday on the City's website.

City of Santa Clara

Tentative Meeting Agenda Calendar

Tuesday, September 29, 2020 Council and Authorities Concurrent Meeting

Closed Session 3:30 – 5:30 p.m.

Special Order of Business

20-785 Neighborhood Watch Program

Public Hearing/General Business

Budget Related Items

A. 20-674 Action on FY 2019/20 Budget Year-end Report and Approve the Related Budget Amendments

B. 20-704 FY 2020/21 Budget Rebalancing Actions to Address COVID-19 Pandemic Impacts

20-681 **Public Hearing:** Action on Early Consideration of a General Plan Amendment from Low Intensity Office to High Intensity Office for the 10.14-acre site located at 2901 Tasman Drive and General Plan Text Amendment to add a policy to allow a Floor Area Ratio up to 2.5 for High Intensity Office sites within half a mile of a light rail station

20-787 **Public Hearing**: Action on Approving the Findings from the Tasman East Specific Plan Area Infrastructure Impact Fee Nexus Study, Setting the Rates for the Infrastructure Impact Fee, and Action on the Introduction of an Ordinance Making Corresponding Revisions to the Santa Clara City Code Section

20-744 **Public Hearing:** Actions on Amendments to the Tasman East Specific Plan to replace a proposed street extension for Calle Del Sol with a pedestrian and bicycle paseo, allow for alternate methods of trip reduction, and correct a clerical error in the Plan regarding the affordable housing requirement and an error regarding permissible density ranges; and to amend the Transit Neighborhood Zoning District to allow certain non-residential uses within the first three floors of mixed use buildings

20-697 Direction to City Manager Regarding Rent Reduction Requests on City-Owned Properties

Tuesday, October 13, 2020 Council and Authorities Concurrent and Special Stadium Authority Meeting

Public Hearing/General Business

20-792 Action on the Introduction of an Ordinance Amending Chapter 10.05 of the City Code ("Motor Vehicle and Traffic Regulations") to Address Assembly Bill 503

20-496 Worker Retention Ordinance Discussion

20-781 Action on a Resolution Considering the Information in the Final Environmental Impact Statement prepared by the Federal Energy Regulatory Commission and on the CEQA Supplement prepared for the Bucks Creek Hydropower License

Stadium Authority Items

20-724 Action on the Audited Santa Clara Stadium Authority Fiscal Year 2019-20 Annual Financial Statements

20-725 Action on the Stadium Authority Financial Status Report for the Quarter and Fiscal Yar Ending March 31, 2020

Tuesday, October 27, 2020 Council and Authorities Concurrent Meeting

Public Hearing/General Business

20-496 Action on the City's Updated Conflict of Interest

20-770 Action on 2020 Q3 Legislative Update

Tuesday, November 10, 2020 Council and Authorities Concurrent Meeting

Special Order of Business

20-740 Sikh Awareness and Appreciation Month

Public Hearing/General Business

20-496 Agenda Items Pending – To Be Scheduled

Tuesday, November 17, 2020 Council and Authorities Concurrent and Stadium Authority Meeting

Public Hearing/General Business

20-496 Adopt a Resolution of Intent to Incur Debt

20-82 Action on Petition to Place an Item on Council Agenda to Proclaim Section of El Camino Real as Korea Town

20-694 **Public Hearing**: Action on a Proposed Resolution Amending Rates for Third Party Communications Attachments to Utility Poles Owned by the City

Stadium Authority Items

20-756 Action on the Santa Clara Stadium Authority Financial Report for Quarters Ending June 30, 2020 and September 30, 2020 and Related Budget Amendments

Tuesday, December 8, 2020 Council and Authorities Concurrent Meeting

Special Order of Business

20-716 Adopt a Resolution Declaring the Results of the Canvass of Returns of the Consolidated Municipal Election held on November 3, 2020 with the Presidential General Election

20-717 Administration of the Oath of Office to the newly Elected Officers for Council District 1, 4, 5 and 6, Chief of Police and City Clerk

Public Hearing/General Business

20-496 Agenda Items Pending – To Be Scheduled

Tuesday, December 15, 2020 Council and Authorities Concurrent Meeting

Study Session

20-188 Update on El Camino Real Specific Plan

Public Hearing/General Business

20-806 Review of Sanitary Sewer Services in the City and Discussion of Private Sewer Lateral Responsibilities

AGENDA ITEMS TO BE SCHEDULED TO A FUTURE DATE

20-496 Action to Authorize the City Manager to enter into an agreement to conduct an organizational assessment of information technology services

20-496 Action to Authorize the City Manager to enter into an agreement to exceed $200,000 to conduct a review and update of the City's Administrative Policies

20-1335 Action on the Central Park Master Plan Update and Introduction of an Ordinance in accordance with City Charter section 714.1

20-496 Comprehensive Signage Program

20-496 CFD Petition

20-496 Park rules update ordinance- two readings [signs]

20-1216 Joint Dinner Meeting with Planning Commission

20-1311 Joint Dinner Meeting with Parks and Recreation Commission

20-338 Recognition of the Santa Clara Women's League donation of $15,000 to support the Senior Center Health & Wellness Case Management Program and the "Be Strong, Live Long" Health & Wellness Fair

20-187 Update on the Downtown Precise Plan

20-705 Early Consideration of Proposed General Plan Amendment Application for the Project located at 500 Benton Street [APN's 230-08-061 (Santa Clara Valley Transportation Authority) and 230-08-078 City)]