

**GRAZING LEASE BY AND BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA,
AND
JOSEPH R. PAULO, AN INDIVIDUAL,
FOR A PORTION OF THE PROPERTY
KNOWN AS THE ALTAMONT RANCH,
ALAMEDA COUNTY, CALIFORNIA**

THIS GRAZING LEASE (herein "Lease") is entered into on this 26th day of September, 2011, (herein the "Effective Date of this Lease") by and between the City of Santa Clara, a chartered California municipal corporation (herein "City") and Joseph R. Paulo, an individual sole proprietor with his principal place of business located at 4151 North Vasco Road, Livermore, CA 94551 ("Contractor"). Contractor and City may be referred to herein individually as a "Party" or collectively as the "Parties" or the "Parties" to this agreement.

RECITALS

Whereas:

- A. City owns a certain parcel of real property located in a rural area of Alameda County, State of California, known as the Altamont Ranch (herein the "Altamont Ranch") more particularly described in Exhibit A attached hereto and incorporated herein by reference;
- B. City owns and operates its own municipal electric utility. The Altamont Ranch was purchased by City as a part of a comprehensive plan to acquire its own electric resources and the Benicia Ranch is part of City's long term plan to accomplish that public purpose;
- C. City's intended primary purpose in owning the Altamont Ranch is to maintain and develop a wind farm on the property for the generation and transmission of electricity for sale or use by City;
- D. To help meet carrying charges incurred by City and to maintain good economic use of the Altamont Ranch, City seeks to authorize other compatible uses of the Altamont Ranch not inconsistent with its primary purpose of electricity generation and transmission. Such other presently anticipated uses, all of which shall be subject to the above stated primary uses, include, landfill, mining, and cattle grazing; and
- E. Lessee is aware of City's intention and desires to enter into this Lease under the terms and conditions set forth herein. Lessee acknowledges that the secondary uses proposed under this Lease shall be compatible and subservient to City's primary electric generation and transmission use.

In consideration of the above referenced recitals and the following mutual covenants, agreements, and obligations of the Parties, the City and Lessee agree as follows:

LEASE PROVISIONS

1. Description of Premises: City agrees to lease to Lessee, and Lessee agrees to hire from City, a portion of the real property generally known as the Altamont Ranch, less the following areas within the perimeters of the ranch:
 - a. The area under the existing wind turbines;
 - b. The area covered by the wind farm maintenance roads; and
 - c. The wind farm staging areas

Said area, which comprises the leased real property (herein the "Premises"), consists of five-hundred and forty (540) acres of ranch land, to be used for grazing purposes, and is more fully described in Exhibit B, attached hereto and incorporated herein by reference. The Premises is leased on the terms and conditions and subject to the reservations set forth in this Lease, without improvements, except as expressly provided in this Lease.

2. Disclaimer of Warranty - Grazing Suitability: City makes no warranty of suitability for grazing on the premises which Lessee is authorized to do under this Lease.
3. Lease Subject to Rights of City and Others: This Lease is subject to the following conditions and restrictions:
 - a. All existing easements, servitudes, licenses, and rights-of-way for canals, ditches, levees, roads, highways, telegraph, telephone, and electric power lines, railroads, pipelines, and other purposes, whether recorded or not;
 - b. The rights of other lessees under any existing or future oil, gas, and mineral lease or leases from future oil, gas, and mineral lease or leases from City affecting the entire or any portion of the Premises, whether recorded or not; and
 - c. The rights retained in City under this Lease, including but not limited to:
 - (1) City's intended purpose related to development, production and distribution of electrical power, exclusive use by City or its tenants of all areas and facilities on the Premises as described in Lease Provisions, [Section 1](#) and Exhibit B;

- (2) the nonexclusive rights of ingress and egress to the Premises by existing roadways to City and its contractors, tenants or assigns, in order to gain access to their equipment and facilities; and
 - (3) the nonexclusive water rights to all water wells, springs, ponds and their associated equipment.
4. Term: The initial term of this Lease is for five (5) years, commencing on the Effective Date of this Lease, and may be extended for an additional five (5) year period. Any extension of this Lease is subject to the discretion and written agreement of the parties hereto. Upon termination of this Lease, Lessee covenants and agrees to peacefully and quietly quit and surrender possession of the Premises and all appurtenances to City subject to all the covenants, conditions, terms and agreements of this Lease, and Lessee agrees to pay all monies then due and owing to City at such time, provided for in this Lease, or as a result of operations thereunder by Lessee, or in consequence thereof. At the termination of this Lease, Lessee shall promptly execute, acknowledge, and deliver to City a recordable quitclaim deed in a form satisfactory to City.
5. Use: The Premises shall be used solely for grazing purposes. Human occupancy overnight is not allowed, except under special circumstances as authorized in writing by City Manager. Commercial wholesale or retail sales operations are not allowed on the Premises.
6. Rent: Lessee shall pay City, on or before the Effective Date of this Lease, and semiannually thereafter, a semiannual rental payment (herein "Semiannual Base Rent") of \$3,861.15, payable in advance. For purposes of this Lease, the Semiannual Base Rent shall be subsequently adjusted in conformity with the provisions of [Section 19](#), Payment and Adjustments, of the General Provisions of this Lease.
7. Security Deposit: In addition to the above rent, to secure the faithful performance of Lessee's obligations hereunder, Lessee shall provide to City a security deposit in the sum of \$5,000.00. Said security deposit will be deposited in a bank or savings institution in a certificate of deposit or similar investment vehicle in the name of City. All interest earned during the time the funds are retained as a security deposit are payable to Lessee. Said funds shall be retained during the entire term of this Lease and any extensions thereof. City may use therefrom such amounts as are reasonably necessary to remedy Lessee's default in performance under this Lease including defaults in the payment of rent, to repair damages caused by Lessee, and to clean the Premises if authorized, whether toward rent, damages, or otherwise during the term of this Lease, Lessee agrees to reinstate said total security deposit of \$5,000.00 upon five days written notice delivered to Lessee in person or by mailing at the last known address as set forth in [Section 46](#), Notices, of the General Provisions.

8. Conservation and Maintenance Work - Nonreimbursable: Lessee, as additional rent under this Lease, shall at Lessee's own expense, perform all conservation and maintenance work in accordance with the specifications and guidelines set forth in the Special Provisions section of this Lease. Should Lessee fail to perform such work, City may arrange for the work to be completed and Lessee shall be required to reimburse City for costs incurred.
9. Improvements: All improvements constructed or installed under the provisions of this Lease, shall become the property of City and shall remain in place and intact upon the expiration or earlier termination of this Lease.
10. General Provisions: The General Provisions of this Lease are attached hereto and made a part hereof.
11. Special Provisions: The Special Provisions of this Lease are attached hereto and made a part hereof.

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

APPROVED AS TO FORM:

for Lindsay Beavers
ELIZABETH H. SILVER
Interim City Attorney

Jennifer Sparacino
JENNIFER SPARACINO
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

ATTEST:
Rod Diridon, Jr.
ROD DIRIDON, JR.
City Clerk

"CITY"

**JOSEPH R. PAULO
an Individual**

By: Joseph R. Paulo
JOSEPH R. PAULO

Title:
Address: 4151 North Vasco Road
Livermore, CA 94550
Telephone: (925) 447-7208
Fax:

"CONTRACTOR"

GENERAL PROVISIONS
GRAZING LEASE BY AND BETWEEN
THE CITY OF SANTA CLARA AND
JOSEPH R. PAULO.
FOR A PORTION OF THE PROPERTY KNOWN AS THE ALTAMONT RANCH.
ALAMEDA COUNTY, CALIFORNIA

The following General Provisions are incorporated into the Grazing Lease dated _____ (herein the "Lease") by and between the City of Santa Clara ("herein "City") and Joseph R. Paulo, (herein "Lessee").

1. Representations: Lessee has examined, knows and accepts the condition and state of the Premises and all appurtenances thereto and acknowledges that City has made no representation concerning such condition, nor any agreement or promise to alter, improve, adapt, repair or keep in repair the Premises and appurtenances, or any item thereof, which has not been fully set forth in this Lease which contains all the agreements made and entered into between Lessee and City.
2. Federal Subsidy Participation (If Applicable): Lessees of agricultural land who wish to enter into any United States Department of Agriculture, Agricultural Stabilization and Conservation Service ("USDA/ASCS") programs or agreements shall do so solely at the discretion of an subject to the USDA/ASCS rules and regulations. City makes no guarantees regarding agricultural uses of the Premises regarding normal crop acreage, allotments for crops, or the qualification of the land for USDA/ASCS programs.
3. Subjection to City's Conservation and Maintenance Requirements: During the term of this Lease, Lessee shall apply the conservation measures and use the Premises in accordance with the Conservation and Maintenance Requirements set forth in the Special Provisions of this Lease. Lessee shall in no manner substantially change the contour or condition of the land constituting any part of the Premises except for such changes as shall be reasonably required to effect conservation and maintenance measures.
4. Installation and Removals: Subject to the prior written approval of City Manager, Lessee shall have the right to erect and pay any taxes imposed at its own expense, such temporary structures on the Premises as may be necessary or incidental to its use thereof under this Lease. All such structures shall remain the property of Lessee and Lessee shall remove same from the Premises prior to the expiration of the term of this Lease, or as said Lease may be extended. All property not so removed shall be deemed abandoned by Lessee and may be used or disposed of by City in any manner whatsoever without any liability to account to Lessee therefore, but such abandonment shall in no way reduce any obligation of Lessee hereunder to restore the Premises.

5. Subject to Existing and Future Easement and Rights-of-Way: This Lease is subject to all outstanding easements and rights-of-way for location of any type of facility over, across, in and upon the Premises, or any portion thereof, and to the right of City to grant such additional easements and rights-of-way over, across, in and upon the Premises as it shall determine to be in the public interest; provided, that any such additional easement or right-of-way shall be conditioned on the assumption by the grantee thereof of liability to property destroyed or property rendered unusable on account of Grantee's exercise of its rights there under. There are also reserved to City, and its assigns, all mineral rights in the Premises, together with such rights of access and use of the surface as may be necessary for the mining and saving of any mineral deposits located thereon or there under. There are hereby reserved to the holders of such easements and rights-of-way as are presently outstanding or which may hereafter be granted, to any workers officially engaged in the construction, installation, maintenance, operation, repair or replacement of facilities located thereon, and to any federal, state or local official engaged in the official inspection thereof, such reasonable rights of ingress and egress over the Premises as shall be necessary for the performance of their duties with regard to such facilities.
6. Restoration of Premises: Before the expiration of this Lease or the prior termination thereof, Lessee shall, if required to do so by City, restore the Premises to the condition existing at the time of its entrance thereon under this Lease, or to such improved condition as they may have been placed in by City or Lessee during the term of this Lease, reasonable wear and tear and damaged by the elements or from other causes over which Lessee had no control excepted.
7. Liens: Lessee shall promptly discharge or cause to be discharged any valid lien, claim or demand of any kind, which at any time may arise or exist with respect to the Premises or materials or equipment furnished therefore, or any part thereof, and if the same shall not be promptly discharged by Lessee, City may discharge, or cause to be discharged, the same at the expense of Lessee.
8. Surrender: Upon the expiration of this Lease or its prior termination, in whole or in part, Lessee shall quietly and peacefully remove itself and its property from the Premises, or part thereof, as to which this Lease shall be terminated, and surrender the possession thereof to City. Upon failure or neglect of Lessee to so remove, City and its officers or agents may enter the Premises and cause the removal of all persons and property therefrom without recourse to any action or proceeding at law or in equity. Lessee hereby expressly waives any provision of law requiring notice to quit possession of the Premises. Such removal shall be at the sole cost and expense of Lessee and Lessee shall indemnify and save and hold harmless City, its officers, agents and employees for and from any and all liability or claims for damages of any nature whatsoever which may arise out of or be attributable to such removal.

9. Damage to City's Property: In the event of the destruction of or damage to any City property located on or adjacent to the Premises by Lessee, or any of its officers, agents, servants, employees, subtenants, licensees or invitees, Lessee shall promptly repair or replace such property to the satisfaction of City, or pay to City an amount of money sufficient to compensate it for the loss or damage sustained, as City shall elect.
10. Nonliability of City: Lessee covenants that it will indemnify and save and hold harmless City, its officers, agents and employees for and from any and all liability or claims for loss of or damage to any property owned by or in the custody of Lessee, its officers, agents, servants, employees, subtenants, licensees or invitees, or for the death of or injury to any of the same which may arise out of or be attributable to the condition, state of repair of Lessee's use and occupancy of the Premises, or the furnishing of any utilities or services (including supply of water from wells or other sources), or any interruption therein or failure thereof, whether or not the same shall be occasioned by the negligence or lack of diligence of Lessee, its officers, agents, servants or employees.
11. Utilities and Services: Lessee shall pay for all water, gas, heat, light, power, telephone service, and for all other services supplied to the Premises except as otherwise provided in this Lease. In the event that City shall furnish Lessee with any utilities and services maintained by City which Lessee may require in connection with its use of the Premises, Lessee shall pay City the charges for such utilities and/or services in addition to the cash rent required under this Lease. Such charges and the method of payment thereof shall be determined by the City Manager in accordance with applicable laws and regulations, on such basis as the City Manager may establish which may include a requirement for the installation of adequate connecting and metering equipment at the sole cost and expense of Lessee. It is expressly agreed and understood that City in no way warrants the continued maintenance or adequacy of any utilities or services furnished by it to Lessee.
12. Entry by Owner: Lessee shall permit City, and City's agents and assigns, at all reasonable times, to enter the Premises, and to use the roads established on the premises now or in the future, for the purposes of inspection, compliance with the terms of this Lease, exercise of all rights under this Lease, posting notices, and all other lawful purposes. Lessee shall supply City, and its agents and assigns, with keys and other instruments necessary to effect entry on the Premises. Lessee shall make and keep pertinent records of all operations and conduct under this Lease and shall make them available to City and City's agents and assigns at all reasonable times for inspection.
13. Liability for Taxes: In accordance with California Revenue and Taxation Code, Section 107.6(a), City states that by entering into this Lease, a possessory interest subject to property taxes may be created. Lessee agrees that in entering into this Lease that its interest therein may be subject to a possible possessory interest tax

that may be imposed on such interest, and that such tax payment shall not reduce any rent due to City hereunder and any such tax shall be the liability of and be paid by Lessee, but only to the extent of Lessee's actual use of the property and not relating to any use or retained rights of City.

14. Covenant Against Contingent Fees: Lessee warrants that no person or agency has been employed or retained to solicit or secure this Lease upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by Lessee for the purpose of securing business. For breach or violation of this warranty, City in its discretion to require Lessee to pay, in addition to the rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

15. Disputes:
 - a. Except as otherwise provided in this Lease, any dispute concerning a question of fact arising under this Lease which is not disposed of by agreement shall be decided by the City Manager, who shall reduce that decision to writing and mail or otherwise furnish a copy thereof to Lessee. The decision of the City Manager, shall be final and conclusive unless, within 30 days from the date of receipt of such copy, Lessee mail or otherwise furnish to the City Manager, a written appeal. The decision of the City Manager, for the determination of such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this Lease as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged; provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, Lessee shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, Lessee shall proceed diligently with the performance of this Lease and in accordance with the decision of the City Manager.

 - b. This "Disputes" clause does not preclude consideration of questions of law in connection with decisions provided for in Section 15a above. Nothing in this Lease, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

16. Labor Provision - Equal Opportunity Employer: During the term of this Lease, Lessee agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

17. Failure of City to Insist on Compliance: The failure of City to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this Lease shall not be construed as a waiver or relinquishment of City's right to future performance of any such terms, covenants or conditions and Lessee's obligations in respect to such future performance shall continue in full force and effect.
18. Rules and Regulations: Lessee shall comply with such rules and regulations regarding site security, ingress, egress, safety and sanitation as may be prescribed, from time to time, by the City Manager, of which the Premises forms a part.
19. Payment and Adjustments: All semiannual rent payments to City required under Lease Provisions [Section 6](#), Rent, of this Lease shall be made by cash, check or postal money order made payable to the City of Santa Clara and delivered to the Finance Department of the City of Santa Clara, 1500 Warburton Avenue, Santa Clara, California 95050.
 - a. The Semiannual Base Rent during the initial term of this Lease may be modified pursuant to this Section 19, which rent Lessee agrees to pay to City, without deduction or offset other than for any discount earned as provided for in subsection b(1) below. The first Semiannual Base Rent payment is due on or before Lessee takes possession on the Effective Date of this Lease. Subsequent payments shall be made semiannually after the Effective Date (herein "Due Date").
 - b. Each semiannual rent payment may be adjusted in accordance with the following directions:
 - (1) Lessee will be allowed a \$150.00 discount on each semiannual rent payment, other than the first payment, if such rent payment is received in full by City on or before 5:00 p.m. of the third day following the Due Date.
 - (2) A service charge of \$30.00 will be made for each check, if any, returned for insufficient funds or which must be resubmitted for payment. Any such service charge shall be part of the rent due, owing and unpaid until paid in full. City also reserves the right to collect damages in an amount provided for in California Civil Code Section 1719, as amended, for any dishonored check received.
 - (3) Each successive two semiannual rent payments, exclusive of the first two Semiannual Base Rent payments, shall be adjusted by increase or decrease once each year on the anniversary date of entering into this Lease.

(4) Two factors shall be used in calculate semiannual rent adjustments:

- a. Changes in the number of grazing acres: In the event that the number of grazing acres is reduced from the approximately 540 acres defined as the Original Leased Acreage, an adjustment to the semiannual rent shall be made based upon the ratio formed by the number of acres included in the Premises after the reduction, divided by the Original Leased Acreage. If such an acreage reduction occurs at a time other than on the anniversary date of the Lease, an adjustment shall be made to the then current semiannual rent payment on a prorata time basis with credit in the amount owed Lessee to be applied against the next semiannual rent payment.

20. Interest: Failure of Lessee to pay the semiannual rent by the Due Date shall constitute a default. In the event that Lessee fails to pay the applicable rent on or before the Due Date, in addition to any other remedy provided by this Lease, Lessee shall pay City the delinquent rent plus interest on the total delinquent rent at the annual rate of two percent (2%) over the Bank of America prime rate existing on the Due Date, compounded daily, from the date of first delinquency to the date the rent is received by City.

It is the intent of this provision that City shall be compensated by such additional sums for loss resulting from rental delinquency including costs incurred by City for servicing the delinquent account. City, at its option, may waive any such delinquency compensation required herein, upon written application of Lessee.

21. Administration: The City Manager shall have complete charge of the administration of this Lease, and shall exercise full supervision and general direction thereof insofar as the interests of City are affected. The term City Manager as used herein shall mean the City Manager or the City Manager's designee.
22. Termination by City: City shall have the right to terminate this Lease, in whole or in part, at any time, after thirty (30) days written notice to Lessee, upon breach by Lessee of any of the terms and conditions of this Lease.
23. Holding Over: Lessee expressly waives the benefits conferred by Section 1161, Subdivision 6 of the Code of Civil Procedure which relate to the holding over upon grazing land after the termination of this Lease.
24. Termination of Lease: In the event that City terminates this Lease on account of the breach by Lessee of any of the terms and conditions of this Lease no adjustment in advance rentals paid by Lessee shall be made and City shall be entitled to recover, and Lessee shall pay to City, all of the following amounts.

- a. The cost incurred in resuming possession of the Premises;
 - b. The costs incurred in performing any obligation on behalf of Lessee which is required to be performed under this Lease; and
 - c. An amount equal to the aggregate of all rents and charges assumed hereunder and not theretofore paid, less the net rentals, if any, collected by City on the reletting of the Premises. Such amounts shall be due and payable at the time when the rent under this Lease would become due and payable.
25. Termination of Rights - Restriction on City: If City should find from time to time that there is a municipal or public need for or use of the Premises, including appurtenance and improvements, or part thereof not otherwise reserved in City under the terms of this Lease which need or use is in conflict with the use of which Lessee makes of the Premises or part thereof, City can direct that any and all rights of Lessee hereunder shall immediately cease and terminate as to that portion of the Premises for which there is a need upon one hundred and eighty (180) days' written notice of intention to terminate without claim or charge to City, and any assignment, subletting and licensing by Lessee shall likewise be so conditioned.
26. Leasehold Improvements: Lessee, during the term and at the termination of this Lease, if not in default hereunder, may remove any of its personal property (including identification signs) from the Premises which can be removed without causing any damage to the Premises. Any personal property to be removed pursuant to this section must be removed from the Premises prior to the last day of this Lease.
27. Abandonment: Lessee shall not vacate or abandon the Premises at any time during the term; and if Lessee does abandon, vacate, or surrender the Premises, or is dispossessed by process of law, or otherwise, personal property belonging to the Lessee and left on the Premises shall be kept for a reasonable time by City, but in no event longer than fifteen (15) days after City gives Lessee notice to remove the property from the Premises, after which time, if it has not been reclaimed by Lessee, it may be treated by City as abandoned.
28. Insurance Hazards: Lessee shall not use the Premises nor permit others to use them, nor do or permit acts that will increase the existing rates of insurance on the structures, trees, or crops on the Premises, or cause a cancellation of any insurance policy covering, in whole or in part, the structures, trees, and crops; nor shall Lessee sell, or permit to be kept, used, or sold, in or about the Premises, any articles that are prohibited by the standard form of fire insurance policies. Lessee shall comply with all requirements, applying to the Premises, of any insurance

organization or company, necessary for the maintenance of reasonable fire and public liability insurance covering the structures, trees, and crops.

29. Use: The Premises is leased to Lessee for the express purpose of feeding, grazing, maintenance, and production of livestock and livestock products including: cattle and horses only. Lessee shall not use, or permit to be used, any part of the Premises for any purpose other than the purposes for which the Premises are leased. All operations incident to this use of the Premises shall be carried on according to the best course of husbandry practical in the vicinity including maintaining fencing and providing firebreaks as may be required by governmental authority, law, order, rule or regulation; and on default of Lessee to do so, City reserves the right, after having given thirty (30) days' written notice, to take necessary remedial measures at the expense of Lessee, for which Lessee agrees to reimburse City on demand.
30. Waste: Lessee shall not commit, or permit others to commit, on the Premises, waste, or a nuisance, or any other act that could disturb the quiet enjoyment of City or any other tenant of City on reserved or adjacent property. Lessee understands and agrees that the storage and/or disposal of the Premises of any hazardous material that is unacceptable to any appropriate agency, whether local, county, state, or national is not permitted in or on the ground or into any drains, wash basins, toilets or the like, including storm drains. Lessee agrees to have any such liquid and/or material removed from the Premises including, if necessary, the hiring of a commercial disposal service, all at Lessee's expense and to the satisfaction of City.
31. Oil, Gas, and Mineral Rights Including Wind Rights: All rights in all minerals, oil, gas, wind, and other hydrocarbons located on, over or under the Premises are particularly reserved to City and are particularly excepted from the property covered by the terms of this Lease. Lessee expressly grants to City, and to lessees of these oil, gas, wind, and mineral rights, and to City's agents and licenses, a right of entry and a right-of-way for ingress and egress in and to, over and on, the Premises during the term of this Lease for the exploration, drilling, and mining of minerals, wind, oil, gas, and other hydrocarbons on the Premises.
32. Hunting Rights: Hunting or shooting on the Premises is expressly prohibited.
33. Timber Rights: All timber rights, of every kind and character, in the Premises are reserved to City, which has the right to cut and remove the timber, or otherwise exercise all timber rights, at all times during the term of this Lease; provided that no damage shall otherwise be done by City or those authorized by it to any cattle or horses of Lessee or other property rights of Lessee under this Lease. Lessee shall not cut down, destroy, or remove, any trees, or shrubs, known or hereafter standing or growing upon the Premises without the written consent of City Manager.

34. Condemnation: If a part of the Premises is condemned for a public use, and the remaining part which is not condemned is retained by Lessee, this Lease shall terminate, as to the part taken, on the date that a certified copy of the final order of condemnation is filed in the office of the County Recorder. The semiannual rent payable under this Lease shall be adjusted in proportion to the number of acres remaining in the Premises following condemnation, in accordance with General Provisions, [Section 19](#), of this Lease. City may, at its option, restore fences and replace access roads lost by the condemnation or City may terminate this Lease in accordance [Section 25](#) of the General Provisions of this Lease. In the event that the Original Leased Acreage is reduced by more than fifty percent (50%), and the remaining acreage is less than that which is acceptable to the Lessee, the Lessee has the option, upon sixty (60) days' written notice to City, to terminate this Lease.

If the entire or a part of the Premises is taken or condemned, all compensation awarded on condemnation shall go to City, with Lessee having no claim to compensation. Lessee irrevocably assigns and transfers to City and right to compensation or damages to which Lessee may become entitled during the term of this Lease by the condemnation of the entire or a part of the Premises.

35. Compliance with Law:
- a. Lessee shall comply with all requirements of all governmental authorities, in force either now or in the future, affecting the Premises, and shall faithfully observe in his use of the Premises all laws, rules, and regulations of such authorities, in force either now or in the future. The judgment of a court of competent jurisdiction, or Lessee's admission in an action or a proceeding against him, whether City be a party to it or not, that Lessee has violated any law, rule, or regulation in his use of the Premises, shall be considered conclusive evidence of that fact as between City and Lessee.
 - b. If, during the term of this Lease, a change in or addition of any law, regulation, or rule by such governmental authorities requires correction or alleviation of naturally occurring conditions, including, but not limited to weed and pest infestations or disease conditions, that exist wholly or in part at the start of this Lease, the required correction or alleviation shall be performed by Lessee unless otherwise directed by the City Manager. The cost of such correction or alleviation actions shall be borne by both City and Lessee in a proportion based on the extent to which the conditions required to be corrected exist on the Effective Date of this Lease. If Lessee fails to comply with any such law, regulation, or rule, City reserves the right to take necessary remedial measures at Lessee's expense, for which Lessee agrees to reimburse City on demand or City may terminate this Lease.

- c. For purposes of this Lease, the term "governmental authorities" shall not include the City, except that City shall have the right to enforce all provisions of this Lease in its role as lessor.
 - d. If during the term of this Lease any alteration of or addition to an artificial structure, including, but not limited to, buildings, fences, roads, dikes, and ditches is required to be made to the Premises, or any portion of the Premises, by law, regulation or rule of one of these governmental authorities and, if the alterations or additions are required as a result of the lack of care or maintenance of those portions of the Premises that Lessee is required by the terms of this Lease to care for and maintain, or as a result of the manner or mode of use of the Premises by Lessee, the alterations or additions shall be made and paid for by Lessee. If Lessee fails to comply with any such law, regulation or rule, City reserves the right to take necessary remedial measures at Lessee's expense, for which Lessee agrees to reimburse City on demand or City may terminate this Lease.
36. Nonliability of Owner for Damages: Lessee agrees to keep City, its City Council, officers and employees, successors and assigns, free from all liability and claim for damages arising from any injury, cost or expense, including all costs and reasonable attorney's fees in providing the defense to any claim arising from any cause to any person, including Lessee, or to property of any kind belonging to anyone, including Lessee, while in, upon, or in any way connected with the Premises, including the straying of livestock from the Premises during the term of any extension of this Lease, or any occupancy under this Lease.
37. Insurance Requirements: Lessee further agrees to purchase and maintain in force, during the term of this Lease at his own expense, general liability insurance, automobile liability insurance, and worker's compensation insurance in amounts and with all certificates and endorsements as set forth in [Exhibit C](#) attached hereto and incorporated herein by reference. Lessee, upon execution of this Lease and before commencing occupancy shall file with EBIX Inc., subject to the City's Attorney approval for adequacy of protection, proper certificates and endorsements as set forth in [Exhibit C](#). Said policies shall not be terminated without thirty (30) days prior written notice to City. Lessee agrees that, if Lessee does not keep the required insurance policies in force, City may take out the necessary insurance and pay the premium. Repayment of the premium shall be part of the rental and payment shall be made within thirty (30) days of the date the premium was paid by City. Lessee further agrees to take out and keep in force during the term of this Lease at his own expense proper and adequate worker's compensation insurance.
38. Remedies of City on Default:

- a. If Lessee breaches this Lease, City shall have, in addition to other rights or remedies, the right of reentry, after having given thirty (30) days' written notice, and the right to take possession of all livestock, crops on the Premises, harvested or unharvested, if any, and to remove all persons and property from the Premises. City may store the property removed in a public warehouse or elsewhere at Lessee's expense and for its account, City, at its election, shall become the owner of all property of which it has so taken possession, without being obligated to compensate Lessee for them.
- b. If City elects to reenter, as provided above, or to take possession under legal proceedings or under any notice provided for by law, City may do either of the following:
 - (1) terminate this Lease, or
 - (2) from time to time, without terminating this Lease, relet the entire or an part of the Premises for such terms (which may extend beyond the term of this Lease) and at such rentals and other conditions as City in its sole discretion deems advisable. City also has the right to make alterations and repairs to the Premises.
- c. If City chooses to relet the entire or any part of the Premises, Lessee shall be immediately liable for payment to City and City, at its option, may apply rents received by City as follows:
 - (1) the payment of any indebtedness, except rent, due under this Lease from Lessee to City;
 - (2) the payment of expenses of reletting and of alterations and repairs;
or
 - (3) the payment of rent due under this Lease and unpaid, with the residue, if any, being held by City and applied in payment of future rent as it becomes due and payable under this Lease.
- d. If Lessee has been credited with rent to be received by reletting under the option in this subparagraph, above, and the rent has not been promptly paid to City by the replacement tenant; or if the rentals received from reletting under the option in this subparagraph, above, during any semiannual rental period are less than that to be paid during that semiannual rental period by Lessee under this Lease, Lessee shall pay the deficiency to City. This deficiency shall be calculated and paid monthly.
- e. No reentry or taking possession of the Premises by City shall be construed as an election by City to terminate this Lease unless written notice of such

an intention is given to Lessee or this Lease is declared to be terminated by a court of competent jurisdiction. Even though the reletting was without termination by City, City may at any future time elect to terminate this Lease for the previous uncured breach by Lessee. If City terminates this Lease for a breach, in addition to any other remedy City may have, City may recover from Lessee all damages City incurs by reason of the breach, including both the cost of recovering the Premises and the worth, at the time of termination, of the excess of the amount of rent and charges equivalent to rent specified in this Lease, for the remainder of the stated term, over the then reasonable rental value of the Premises for the remainder of the term. All of these amounts shall be immediately due from Lessee to City.

- f. All of these rights shall be concurrent and cumulative and are in addition to, and not in derogation of, all other rights and remedies available to City.
 - g. Nothing contained in this Lease, and no security or guarantee of Lessee that City holds now or in the future under this Lease, shall in any way constitute a bar or defense to an action by City in unlawful detainer or for recovery of the Premises.
39. Insolvency; Receiver: In addition to any action or failure to act which constitute a breach of the terms and conditions of this Lease under California law, any one, or any combination, of the following constitutes a breach of this Lease by Lessee:
- a. The appointment of a receiver to take possession of all or substantially all assets of Lessee, or
 - b. A general assignment by Lessee for the benefit of creditors, or
 - c. An action taken or suffered by Lessee under any insolvency or bankruptcy act.
40. Attorney's Fees on Default: In any action or proceeding by either party to enforce this Lease or any provision thereof, the prevailing party shall be entitled to all costs incurred and to reasonable attorney's fees.
41. Action of Receiver: If, in an action against Lessee, City has a receiver appointed to take possession of the Premises, or to collect the rents or profits derived from the Premises, or both, the receiver has the right, if it is necessary or convenient in order to collect rents or profits, to conduct the business of Lessee then being carried on the Premises and to take possession of any personal property belonging to Lessee and used in the conduct of the business, and to use personal property in conducting the business on the Premises. Neither the application for the appointment of the receiver, nor the appointment of the receiver, shall be

construed as an election by City to terminate this Lease unless a written notice of such intention is given to Lessee.

42. Surrender of Lease Not Merger: The voluntary or other surrender by Lessee, or a mutual cancellation, of this Lease shall not work a merger, and shall, at City's option, terminate all existing subleases or subtenancies, or may, at City's option, operate as an assignment to City of any or all subleases or subtenancies.
43. Assignment or Subletting: Lessee may not assign this Lease, or any rights under it, and shall not sublet the entire or any part of the Premises, or any right or privilege appurtenant to the Premises, or permit any other person (the agents and servants of Lessee excepted) to occupy or use the entire or any portion of the Premises, without first obtaining City's written consent; provided that City shall not unreasonably withhold consent to assignment, sublease, or other transfer of use or possession of the Premises. A consent to one assignment, subletting, occupancy or use by another person is not a consent to a future assignment, subletting, occupancy or use by another person. An assignment or a subletting without City's consent shall be void, and shall, at City's option, terminate this Lease. No interest of Lessee in this Lease shall be assignable by operation of law without City's written consent. No assignment, subletting, or encumbrance by Lessee shall release it from any obligations hereunder.
44. Subordination: This Lease shall be subordinate to any mortgages or deeds of trust by City that may subsequently be placed on the Premises, to all advances made under them, to the interest on all obligations secured by them, and to all renewals, replacements, and extensions of them. Provided, however, the mortgagee or beneficiary in those mortgages or deeds of trust shall recognize this Lease in the event of foreclosure if Lessee is not in default under the terms of this Lease.
45. Waiver: The waiver by City of a breach of any term, covenant, or condition contained in this Lease shall not be treated as a waiver of such term, covenant, or condition, or as a waiver of a future breach of the same or any covenant, or condition contained in this Lease. The acceptance of rent by City shall not be treated as a waiver of a previous breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of City's knowledge of a previous breach at the time of acceptance of rent.
46. Notices: Any notice to be given to either party by the other shall be in writing and shall be served either personally or be registered or certified mail address as follows:

City: City of Santa Clara
Attn: Electric Department
1500 Warburton Ave.
Santa Clara, CA 95050

Lessee: Joseph R. Paulo
4151 North Vasco Road
Livermore, CA 94550
Telephone (925) 447-7208

The address to which notices shall be mailed as aforesaid to either party may be changed by written notice given by such party to the other as hereinbefore provided.

47. Legal Effect: All covenants of Lessee contained in this Lease are expressly made conditions. The provisions of this Lease shall, subject to the provisions on assignment, apply to and bind the heirs, successors, executors, administrators, and assigns of all parties to this Lease; and all parties to this Lease shall be jointly and severally liable under it. The titles or headings to the paragraphs of this Lease are not a part of this Lease and shall have no effect on the construction or interpretation of any part of this Lease.
48. Time of Essence: Time is of the essence of this Lease.
49. Governing Law: The law of the State of California shall govern this Lease.
50. Amendment: This Lease may be amended only by a duly executed written document, signed by all parties to this Lease.

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SPECIAL PROVISIONS
of the
GRAZING LEASE BY AND BETWEEN
THE CITY OF SANTA CLARA AND
JOSEPH R. PAULO.
FOR A PORTION OF THE PROPERTY KNOWN AS THE ALTAMONT RANCH
ALTAMONT COUNTY, CALIFORNIA

SOIL AND WATER CONSERVATION AND MAINTENANCE REQUIREMENTS

Lessee shall apply conservation and maintenance measures and use the Premises by following generally accepted grazing practices. Lessee shall in no manner substantially change the condition of the Premises except for such changes prescribed by the City Manager.

1. Site Coordination: Lessee or his representative shall closely coordinate his operations with City Manager located at 1500 Warburton Avenue, Santa Clara, California 95050, telephone (408) 615-2210. Lessee shall be available at all times to correct emergency situations with regard to this Lease. Lessee shall provide City with emergency telephone numbers where Lessee may be contacted during working and nonworking hours. Lessee shall also provide at least one alternate point of contact (name, address, and phone number) who may act on behalf of Lessee in emergency situations. Lessee or his alternate(s) shall be available for contact seven days per week, 24 hours per day, and should arrive on site within two hours of an emergency.

2. Conservation and Maintenance Work: It is the intent of City that the land be utilized for multiple uses including, but not limited to, utility, grazing, wildlife habitat, recreation, and soil and water conservation. Lessee is required to participate in a conservation and maintenance program as outlined in these Special Provisions and as may be further directed from time to time by the City Manager based upon accepted range and grazing practices. The conservation and maintenance measures so selected are intended to provide for the long term productivity of the grazing area on the Premises while protecting the other natural resources and permitting a reasonable economic return to Lessee. Lessee will be responsible for performing conservation and maintenance of the Premises at his own expense. Should Lessee fail to perform required conservation or maintenance work, City reserves the right, after 30 days written notice, to hire others at the direction of the City Manager, to conduct such work at Lessee's expense. Hunting or shooting on the Premises is expressly prohibited.
 - a. Grazing Management:
 - (1) Grazing Intensity: The amount of grazing must be sufficient each year to reduce overall fire hazard while protecting against soil erosion. It is the expressed concern of City that the range not be

overgrazed. Lessee agrees to avoid grazing where the soil is very wet or muddy and damage thereto is likely to occur. A pasture rotation plan for protection against overgrazing shall be submitted before September 1 of each year by Lessee to the City Manager for review and approval. This plan shall insure protection of all grazing areas on the Premises from overgrazing or related damage. A minimum three inch stubble height of vegetation shall be maintained in each grazing area at all times.

- (2) Season of Use: The grazing season is yearlong, subject to availability of feed and water.
- (3) Livestock Distribution: Lessee shall strive for optimum distribution of livestock over the leased area. Salt blocks and feed supplements shall not be located within 1/4 mile of watering areas but shall be distributed uniformly throughout the leased area.
- (4) Animal Health: Lessee shall comply with all federal, state and local animal health laws, and regulations with respect to livestock grazing on the Premises.
- (5) Removal of Dead Livestock: Lessee, at his own expense, shall immediately dispose of any dead animals in a manner satisfactory to the City Manager, and in accordance with local ordinances. Disposal shall take place within 34 hours or sooner after notification to Lessee.
- (6) Supplemental Feeding: Supplemental feeding may be allowed in any lease year provided Lessee annually submits a prior written request and subsequent written permission is granted from City Manager.
- (7) Standard of Operation: Lessee agrees to manage and operate the ranch in an efficient and husbandman like manner following land use practices recognized at the best in the area.
- (8) Alternate Compatible Uses: It is understood that City contemplates the erection and operation of wind powered structures, and possibly other forms of electrical generation, on the Premises. Also, the City may determine that there are other compatible uses for the number of grazing acres included in the Premises. To the extent that such uses reduce the number of grazing acres included in the Premises, the semiannual rental payments shall be adjusted in proportion to the number of grazing acres remaining in the Lease following the reduction, in

accordance with General Provisions, [Section 19](#), of this Lease. In the event that the Original Leased Acreage is reduced by more than fifty percent (50%), and the remaining acreage is less than that which is acceptable to the Lessee, written notice to City, to terminate this Lease. As between the City and Lessee, the City shall be solely responsible for anything relating to above electrical generation or compatible uses, and more specifically, for any personal injury or property damage in any way related thereto, including but not limited to the acts of negligence of City, its agents, employees, contractors, or assigns.

- b. Livestock Water and Facilities: All watering systems presently on the Premises shall be for the exclusive use cattle or horses while this Lease applies to the areas where the systems are located. Lessee, at his own expense, shall frequently inspect and maintain existing and future livestock watering facilities during the term of this Lease, including: springs, ponds, and water troughs. Maintenance includes, but is not limited to: maintaining water free of excessive amounts of algae, silt and manure; clearing obstructions away from drain and spillways, repairing float and valve mechanisms, cleaning or replacing blocked or damaged piping, repairing spring boxes, and stabilizing reservoir slopes.
- c. Water: During the term of this Lease, water shall be available to Lessee for Lessee's livestock from springs and pipelines presently existing on the Premises; and from the domestic well and pump located at the main ranch house, if required, and to the extent such use does not interfere with the domestic and animal water requirements of other Lessees at that location.

Water from the sources to or on the Premises available to Lessee under this Lease shall be used only on the Premises and in the performance of Lessee's obligations under this Lease. Lessee shall not export this water to other lands. City assumes no responsibility to Lessee for any water shortage from the facilities mentioned above and assumes no responsibility for and does not warrant, the quality or quantity of the water supply on or to the Premises.

- d. Maintenance: Lessee shall care for the Premises and appurtenances of the Premises, including, but not limited to, all fences, corrals, springs, water troughs, and fire breaks, and maintain them in the same or better order and condition in which received, ordinary wear and tear excepted. Roads may serve as firebreaks provided that their function as roads is not degraded. Discing of roads is strictly prohibited. All materials used in maintaining City owned facilities shall be of at least the same type of quality as those used in original construction. All materials used for such repairs shall become the property of City and shall not be removed by Lessee upon termination of this Lease.

- e. Alterations: Lessee shall not make, or permit to be made, alterations of the Premises, without first obtaining City Manager's written consent. Additions to, or alterations of, the Premises, except trade fixtures, shall become at once a part of the realty and belong to City. Lessee shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by Lessee.

- f. Management of Maintenance Areas: Maintenance areas shall be managed to prevent erosion. Lessee, at his own expense, shall control weeds on maintenance areas at a maximum height of 6" per year by mowing, chopping or spraying. No soil sterilants may be used. Any area on the Premises which is not grazed shall be considered a maintenance area.

- g. Pest Management: Lessee shall, at his own cost and expense, comply with all state, county, city, and district weed and rodent control programs. The following weeds and rodents shall be controlled to the satisfaction of City Manager whether under any control program of the state, county or city, or not.

Weeds

Rodents

Artichoke thistle
 Purple star thistle
 Rattleweed

Ground squirrel

Artichoke thistle and purple star thistle control shall be performed annually by April 1st on a nonreimbursable basis with a minimum 95% kill. The term "pesticide" includes herbicides, insecticides, fungicides, rodenticides, algaecides, and avicides. Lessee may apply limestone or commercial fertilizer to established meadows and pastures for soil improvement at his own expense and consistent with the terms of this Lease. All such improvements shall become and remain the property of City. Lessee shall be responsible for complying with all federal, state, and local environmental standards, including obtaining required permits. Lessee, at least five working days prior to pesticide application, shall furnish City Manager the following information.

- (1) Common name/concentration of the product.
- (2) Formulation of the product.
- (3) Amount to be used.
- (4) Target pest or weed (if applicable).

- (5) Crop and acreage to be treated.
- (6) Application rate/acre.
- (7) Time/frequency of application.

Lessee shall not proceed with the application program without a forty-eight (48) hour prior notification and subsequent receipt of City Manager's approval.

- h. Fire Prevention: Lessee agrees to repair and maintain all firebreaks to the extent such repairs or maintenance is required from time to time by governmental authority, law, order, rule or regulations (a copy can be obtained from the Solano County Fire Department). Lessee shall comply with local fire control and prevention regulations. In the event of any accidental or uncontrolled fire on the Premises, Lessee shall immediately contact the fire department and exercise due care to prevent damage to the Premises from such a fire.
 - (1) Equipment: All engine-driven equipment used by Lessee on the site must be equipped with properly operating spark arresters, mufflers, and tailpipe assemblies. In addition, any vehicle having a catalytic converter pollution device may not be driven off or improved roads due to the extreme heat generated by the device during the dry season. City will fence or otherwise secure equipment, structures, apparatus, and other critical items from grazing livestock, specifically including many windmills, wind power apparatus or other electrical generation facilities of City or other lessees of City, at City's sole discretion.
 - (2) Storage of Equipment and Materials: Equipment utilized in the operation of this Lease may be stored only in an area approved by City. No hazardous material shall be stored on the Premises pursuant to the General Provisions of this Lease.
- i. Debris Removal: Lessee shall maintain all areas of the Premises in a neat, orderly appearance at all times. Broken down or discarded equipment or material shall be removed from the Premises immediately. Lessee may burn debris or waste located on the Premises only with the previous written permission of City Manager. Lessee must also obtain the appropriate permits from governmental agencies before any burning is done on the Premises.
- j. Erosion Control: Lessee shall apply prudent erosion control measures as prescribed by City Manager and the Solano County Soil Conservation Service to reduce the loss of soil due to the actions of wind and water.

- k. Fence and Gate - Maintenance: Lessee shall be required to maintain all existing fence lines, cattle gates, and grates in good working condition.

- l. Additional Conservation Work: Projects determined to be in the best interest of City may be approved by the City Manager for construction by Lessee on a cost sharing basis. Upon completion of such work and acceptance of same by City, Lessee shall receive payment in full for that portion of actual costs which City had agreed to pay, or shall receive rent credit in the same amount against rents payable under the terms of this Lease; provided however, that in no event shall such rent credit exceed the total amount of cash rent called for in the Lease. Lessee shall be responsible for maintenance of such completed projects at his own expense.

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October 24, 2017

City of Santa Clara
Attn: Diana Shiles
881 Martin Avenue
Santa Clara, CA 95111

Dear Diana,

This letter is in regard to the extension of the Altamont Ranch, Alameda County, California grazing lease.

The lease was executed with an effective date of September 26, 2011 for initial term of five (5) years and may be extended for an additional five (5) year term. In section four (4) of the lease it states the any extension is subject to the discretion and written agreement of both parties.

Please accept this letter as our written request to extend the grazing lease for the additional five (5) year term.

Note that our principal place of business, as indicated on lease, remains the same:

- 4151 N Vasco Road, Livermore, CA 94551

Our mailing address has changed to:

- 1452 N Vasco Road #293, Livermore, CA 94551

Please let me know should you need additional information or have any questions. We look forward to your response.

Sincerely,



Charlene Paulo
Paulo Farms

Paulo Farms
1452 N Vasco Road #293
Livermore, CA 94551
925.447.7208 – fax 925.443.6647 – charpaulo@aol.com