COUNCILMEMBERS
Michael McCorriston, Mayor
Dr. Sherry Hu, Vice Mayor
Jean Josey, Councilmember
Kashef Qaadri, Councilmember
Janine Thalblum, Councilmember

DUBLIN
CALIFORNIA

City Council Chamber
Dublin Civic Center
100 Civic Plaza
Dublin, CA 94568
www.dublin.ca.gov

Regular Meeting of the

DUBLIN CITY COUNCIL

Tuesday, November 5, 2024

Location: City Council Chamber
100 Civic Plaza
Dublin, CA 94568

REGULAR MEETING 5:30 PM

Additional Meeting Procedures

This City Council meeting will be broadcast live on Comcast T.V. channel 28 beginning at 5:30 p.m. This meeting will also be livestreamed at www.tv30.org and on the City's website at: https://dublin.ca.gov/ccmeetings

For the convenience of the City and as a courtesy to the public, members of the public who wish to offer comments electronically have the option of giving public comment via Zoom, subject to the following procedures:

□ Fill out an online speaker slip available at www.dublin.ca.gov. The speaker slip will be made available at 10:00 a.m. on Tuesday, November 5, 2024. Upon submission, you will receive Zoom link information from the City Clerk. Speakers slips will be accepted until the staff presentation ends, or until the public comment period on non-agenda items is closed.

□ Once connected to the Zoom platform using the Zoom link information from the City Clerk, the public speaker will be added to the Zoom webinar as an attendee and muted. The speaker will be able to observe the meeting from the Zoom platform.

□ When the agenda item upon which the individual would like to comment is addressed, the City Clerk will announce the speaker in the meeting when it is their time to give public comment. The speaker will then be unmuted to give public comment via Zoom.
□ Technical difficulties may occur that make the option unavailable, and, in such event, the meeting will continue despite the inability to provide the option.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. PRESENTATIONS AND PROCLAMATIONS

3.1 Recognition of the American Legion Citizenship Training Program, Boys & Girls State Delegates

The City Council will recognize the Dublin High School students that participated in the Citizenship Training Program, Boys & Girls State sponsored by the American Legion, Department of California.

STAFF RECOMMENDATION:

Recognize the delegates.

Staff Report

Attachment 1 - Certificate of Recognition - Aakrisht Mehra

Attachment 2 - Certificate of Recognition - Andrea Yu

Attachment 3 - Certificate of Recognition - Evan Valentine

Attachment 4 - Certificate of Recognition - Joshua Y. Lee

Attachment 5 - Certificate of Recognition - Sara Ghile

3.2 Employee Introduction

New City of Dublin Staff member, Christine Begin, Office Assistant II with the Parks and Community Services Department, will be introduced.

STAFF RECOMMENDATION:

Welcome the new City of Dublin Staff member.

Staff Report

3.3 Introduction of Dublin Police Services Chief Victor Fox

New Dublin Police Services Chief Victor Fox will be introduced.

STAFF RECOMMENDATION:

Welcome Dublin Police Services Chief Victor Fox.

Staff Report

Attachment 1 - Dublin Police Services Chief Victor Fox Biography

4. PUBLIC COMMENT

At this time, the public is permitted to address the City Council on non-agendized items. Please step to the podium and clearly state your name for the record. COMMENTS SHOULD NOT EXCEED THREE (3) MINUTES. In accordance with State Law, no action or discussion may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter. Any member of the public may contact the City Clerk's Office related to the proper procedure to place an item on a future City Council agenda. The exceptions under which the City Council MAY discuss and/or take

action on items not appearing on the agenda are contained in Government Code Section 54954.2(b)(1)(2)(3).

5. CONSENT CALENDAR

Consent Calendar items are typically non-controversial in nature and are considered for approval by the City Council with one single action. Members of the audience, Staff or the City Council who would like an item removed from the Consent Calendar for purposes of public input may request the Mayor to remove the item.

5.1 Approval of the October 15, 2024 Regular City Council Meeting Minutes

The City Council will consider approval of the minutes of the October 15, 2024 Regular City Council Meeting.

STAFF RECOMMENDATION:

Approve the minutes of the October 15, 2024 Regular City Council Meeting.

Staff Report

Attachment 1 - October 15, 2024 Regular City Council Meeting Minutes

5.2 Basketball Court Mural Art Selection

The City Council will consider a recommendation from the Heritage and Cultural Arts Commission for eight basketball court murals to be painted in Fiscal Year 2024-25.

STAFF RECOMMENDATION:

Approve the Heritage and Cultural Arts Commission's Basketball Court Mural Art Program recommendations.

Staff Report

Attachment 1 - Design Proposals from Recommended Artists

Attachment 2 - Call for Artists Basketball Court Murals

5.3 Purchase of Replacement Stage and Dance Floor for the Shannon Community Center

The City Council will consider authorizing the purchase of a replacement stage, dance floor, and related equipment for the Shannon Community Center from Mity-Lite.

STAFF RECOMMENDATION:

Adopt the **Resolution** Authorizing the Purchase of a Replacement Stage, Dance Floor, and Related Equipment for the Shannon Community Center from Mity-Lite.

Staff Report

Attachment 1 - Resolution Authorizing the Purchase of a Replacement Stage, Dance Floor, and Related Equipment for the Shannon Community Center from Mity-Lite

Attachment 2 - Exhibit A to the Resolution - Mity-Lite Government Pricing Agreement

5.4 Sunflower Hill at Grace Pointe Project Affordable Housing Assistance Agreement

The City Council will consider approving an Affordable Housing Assistance Agreement with Sunflower Grace, L.P., for the development of the proposed 60-unit Grace Pointe affordable housing project. The project will be located within the Dublin Centre project and provide affordable housing for those with intellectual and developmental disabilities.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Affordable Housing Loan Agreement Between the City of Dublin and Sunflower Grace, L.P., and approve the budget change.

Staff Report
Attachment 1 - Resolution Approving an Affordable Housing Assistance Agreement Between the City of Dublin and Sunflower Grace, L.P.
Attachment 2 - Exhibit A to the Resolution - Affordable Housing Assistance Agreement for Sunflower Hill at Grace Pointe
Attachment 3 - Budget Change Form

5.5 Agreement with Precision Emprise LLC for Sidewalk Inspection and Repair Services

The City Council will consider approving an agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services.

Staff Report
Attachment 1 - Resolution Approving an Agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services
Attachment 2 - Exhibit A to the Resolution - Agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services
Attachment 3 - Map of Sidewalk Inspection and Repair Status
Attachment 4 - BuyBoard Contract with Precision Concrete Cutting, 657-21

5.6 Two-Year Strategic Plan Quarterly Update

The City Council will receive a status update on the City's Two-Year Strategic Plan.

STAFF RECOMMENDATION:

Receive the report.

Staff Report
Attachment 1 - City of Dublin FY2024-2026 Strategic Plan Update (July 1, 2024 - September 30, 2024)

6. PUBLIC HEARING – None.

7. UNFINISHED BUSINESS – None.

8. NEW BUSINESS

8.1 Fiscal Year 2023-24 4th Quarter Financial Review and Additional Special Designations of General Fund Reserves

The City Council will receive a financial report on the fourth quarter of Fiscal Year 2023-24 and consider amendments to the General Fund reserve designations.

STAFF RECOMMENDATION:

Adopt the **Resolution** Authorizing Additional Special Designations of General Fund Reserves for Fiscal Year 2023-24 and confirm additional General Fund reserve designations as of June 30, 2024.

Staff Report
Attachment 1 - Resolution Authorizing Additional Special Designations of General Fund Reserves for Fiscal Year 2023-24

Attachment 2 - General Fund Summary FY 2023-24
Attachment 3 - General Fund Reserves Summary FY 2023-24
Item 8.1 PowerPoint Presentation

8.2 Letter of Intent Regarding the Allocation of Fallon Sports Park to Emerald High School Baseball and Softball

The City Council will consider a Letter of Intent between the City and Dublin Unified School District (DUSD) to accommodate Emerald High School's baseball and softball teams for priority use of certain fields at Fallon Sports Park during the high school season. The arrangement will also require modifications to other City fields to provide sufficient facilities for other user groups.

STAFF RECOMMENDATION:

Direct Staff to issue a Letter of Intent to Dublin Unified School District (DUSD), committing to Emerald High School's priority use of the field space and affirming DUSD's role in making field modifications at Emerald Glen Park.

Staff Report
Attachment 1 - Letter of Intent

9. CITY MANAGER AND CITY COUNCIL REPORTS

Brief information only reports from City Council and/or Staff, including committee reports and reports by City Council related to meetings attended at City expense (AB1234).

10. ADJOURNMENT

This AGENDA is posted in accordance with Government Code Section 54954.2(a)

If requested, pursuant to Government Code Section 54953.2, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132) (ADA), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation, please contact the City Clerk's Office (925) 833-6650 at least 72 hours in advance of the meeting. Upon receiving a request, the City will swiftly resolve requests for reasonable accommodation for individuals with disabilities, consistent with the federal ADA, and resolve any doubt in favor of accessibility.

Agenda materials that become available within 72 hours in advance of the meeting, and after publishing of the agenda, will be available at Civic Center, 100 Civic Plaza, and will be posted on the City's website at www.dublin.ca.gov/ccmeetings.

Mission

The City of Dublin promotes and supports a high quality of life, ensures a safe, secure, and sustainable environment, fosters new opportunities, and champions a culture of equity, diversity, and inclusion.

Agenda Item 3.1

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Recognition of the American Legion Citizenship Training Program, Boys & Girls State Delegates
Prepared by: Cierra Fabrigas, Executive Aide

EXECUTIVE SUMMARY:

The City Council will recognize the Dublin High School students that participated in the Citizenship Training Program, Boys & Girls State sponsored by the American Legion, Department of California.

STAFF RECOMMENDATION:

Recognize the delegates.

FINANCIAL IMPACT:

None.

DESCRIPTION:

In June 2024, eight high school students were sponsored by American Legion Post 237 Pleasanton/Dublin as delegates to the Citizen Training Program, Boys & Girls State held in Sacramento. This program is designed to teach students about the functions of municipal, county, and state governments. The delegates practice government functions by holding mock elections for various offices and drafting legislation as part of their learning experience. Five of the eight students that were sponsored for the program were from Dublin High School.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Certificate of Recognition – Aakrisht Mehra
2) Certificate of Recognition – Andrea Yu
3) Certificate of Recognition – Evan Valentine
4) Certificate of Recognition – Joshua Y. Lee
5) Certificate of Recognition – Sara Ghile

CERTIFICATE OF RECOGNITION

Given to

AAKRISHT MEHRA

In recognition of your participation in the Citizenship Training Program, Boys & Girls State sponsored annually by the American Legion, Department of California.

Presented by the

The City of Dublin

Dated: November 5, 2024

Mayor Michael McCorriston

Vice Mayor Sherry Hu

Councilmember Jean Josey

Councilmember Kashef Qaadri

Councilmember Janine Thalblum

CERTIFICATE OF RECOGNITION

Given to

ANDREA YU

In recognition of your participation in the Citizenship Training Program, Boys & Girls State sponsored annually by the American Legion, Department of California.

Presented by the

The City of Dublin

Dated: November 5, 2024

Mayor Michael McCorriston

Vice Mayor Sherry Hu

Councilmember Jean Josey

Councilmember Kashef Qaadri

Councilmember Janine Thalblum

CERTIFICATE OF RECOGNITION

Given to

EVAN VALENTINE

In recognition of your participation in the Citizenship Training Program, Boys & Girls State sponsored annually by the American Legion, Department of California.

Presented by the

The City of Dublin

Dated: November 5, 2024

Mayor Michael McCorriston

Vice Mayor Sherry Hu

Councilmember Jean Josey

Councilmember Kashef Qaadri

Councilmember Janine Thalblum

CERTIFICATE OF RECOGNITION

Given to

JOSHUA Y. LEE

In recognition of your participation in the Citizenship Training Program, Boys & Girls State sponsored annually by the American Legion, Department of California.

Presented by the

The City of Dublin

Dated: November 5, 2024

Mayor Michael McCorriston

Vice Mayor Sherry Hu

Councilmember Jean Josey

Councilmember Kashef Qaadri

Councilmember Janine Thalblum

CERTIFICATE OF RECOGNITION

Given to

SARA GHILE

In recognition of your participation in the Citizenship Training Program, Boys & Girls State sponsored annually by the American Legion, Department of California.

Presented by the

The City of Dublin

Dated: November 5, 2024

Mayor Michael McCorriston

Vice Mayor Sherry Hu

Councilmember Jean Josey

Councilmember Kashef Qaadri

Councilmember Janine Thalblum

Agenda Item 3.2

STAFF REPORT

CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Employee Introduction
Prepared by: Sarah Monnastes, Human Resources Director

EXECUTIVE SUMMARY:

New City of Dublin Staff member, Christine Begin, Office Assistant II with the Parks and Community Services Department, will be introduced.

STAFF RECOMMENDATION:

Welcome the new City of Dublin Staff member.

FINANCIAL IMPACT:

None.

DESCRIPTION:

New City of Dublin Staff member, Christine Begin, Office Assistant II with the Parks and Community Services Department, will be introduced.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

Agenda Item 3.3

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Introduction of Dublin Police Services Chief Victor Fox
Prepared by: Marsha Moore, MMC, City Clerk

EXECUTIVE SUMMARY:

New Dublin Police Services Chief Victor Fox will be introduced.

STAFF RECOMMENDATION:

Welcome Dublin Police Services Chief Victor Fox.

FINANCIAL IMPACT:

None.

DESCRIPTION:

Victor Fox, the new Chief of Police for Dublin Police Services, will be introduced to the City Council. Chief Fox began his assignment as Chief of Police on October 28, 2024, and has over 22 years of service with the Alameda County Sheriff's Office, including a previous assignment with Dublin Police Services.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Dublin Police Services Chief Victor Fox Biography

DPS Chief Victor Fox - Biography

Chief Victor Fox has over 22 years of service with the Alameda County Sheriff's Office. During his career, he has been assigned to Detentions and Corrections, the Eden Township Substation, Dublin Police Services, and the Regional Training Center.

At the Eden Township Substation, Chief Fox served the citizens of Unincorporated Alameda County as a patrol deputy and spent over four years assigned to the Community Oriented Policing and Problem-Solving Unit. In this capacity, Chief Fox worked closely with the community to identify and develop solutions to crime and quality of life issues impacting citizens in our jurisdiction.

Upon promotion to Sergeant, Chief Fox worked as a shift supervisor at the Santa Rita Jail, the Glenn E. Dyer Detention Facility, and the Eden Township Substation.

Upon promotion to Lieutenant, Chief Fox was assigned as a Watch Commander at the Santa Rita Jail and Dublin Police Services where he oversaw the Operations Division, Administration, the Investigations Unit, and was the Public Information Officer. In this capacity, he is proud to have worked on several projects including the first phase of Automated License Plate Recognition and Situational Awareness cameras throughout the city of Dublin.

Chief Fox was promoted to the rank of Captain in 2019 and was briefly assigned as the Department Watch Commander before his last assignment at the Alameda County Sheriff's Office Regional Training Center in April of 2020. In this capacity, Chief Fox was the Training Manager for the Agency responsible for ensuring compliance with training mandates set forth by the Commission on Peace Officer Standards and Training as well as the Board of State and Community Corrections. He was also the Academy Director and has overseen the education and graduation of nearly 1,000 law enforcement officers.

Chief Fox's other duties include management of the Backgrounds and Recruiting Unit which has played a critical role in recent years in finding outstanding candidates to fill staffing voids. He also oversaw the Sheriff's Office Honor Guard, a unit who represents the Sheriff's Office in numerous events including, but not limited to funeral details for fallen officers, funeral details for retired members, community events, and graduation ceremonies.

Chief Fox was a member of the ACSO Special Response Unit for 17 years, recently retiring from the unit as a Tactical Commander. In this position he was responsible for oversight of high-risk tactical operations throughout Alameda County and oversaw the Alameda County Sheriff's Office Crisis Intervention Unit.

Chief Fox has a Bachelor of Arts degree from the University of California, Los Angeles and is a graduate of the prestigious FBI National Academy. He was recently accepted into the School of Continuing and Professional Studies at the University of Virginia where he is pursuing a Masters Degree in Public Safety.

Chief Fox is a member of the Chabot College Administration of Justice Advisory Board and is a Chabot College instructor where he has taught the Basic Academy in the areas of Leadership and Ethics, Principled Policing, Firearms, ABC Law, Chemical Agents, Less Lethal Munitions, and Emergency Vehicle Operations.

Chief Fox is proud to have served the citizens of Alameda County and is honored to once again serve the residents of the City of Dublin as your new Chief of Police.

Agenda Item 5.1

STAFF REPORT

CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Approval of October 15, 2024 Regular City Council Meeting Minutes
Prepared by: Marsha Moore, MMC, City Clerk

EXECUTIVE SUMMARY:

The City Council will consider approval of the minutes of the October 15, 2024, Regular City Council Meeting.

STAFF RECOMMENDATION:

Approve the minutes of the October 15, 2024, Regular City Council Meeting.

FINANCIAL IMPACT:

None.

DESCRIPTION:

The City Council will consider approval of the minutes of the October 15, 2024, Regular City Council Meeting.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) October 15, 2024 Regular City Council Meeting Minutes

MINUTES OF THE CITY COUNCIL OF THE CITY OF DUBLIN

Regular Meeting: October 15, 2024

The following are minutes of the actions taken by the City of Dublin City Council. A full video recording of the meeting with the agenda items indexed and time stamped is available on the City's website at: https://dublin.ca.gov/ccmeetings

CLOSED SESSION 6:39 PM

I. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager

REGULAR MEETING 7:00 PM

A Regular Meeting of the Dublin City Council was held on Tuesday, October 15, 2024, in the City Council Chamber. The meeting was called to order at 7:00 PM, by Mayor McCorriston.

1) CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Attendee Name	Status
Michael McCorriston, Mayor	Present
Dr. Sherry Hu, Vice Mayor	Present
Jean Josey, Councilmember	Present
Kashef Qaadri, Councilmember	Present
Janine Thalblum, Councilmember	Present

2) REPORT ON CLOSED SESSION

Mayor McCorriston reported there was no reportable action out of Closed Session.

3) PRESENTATIONS AND PROCLAMATIONS

3.1) Presentation of the World Polio Day Proclamation

The City Council presented the World Polio Day proclamation.

3.2) Presentation of the Hindu American Awareness and Appreciation Month Proclamation

The City Council presented the Hindu American Awareness and Appreciation Month proclamation.

DRAFT

3.3) Presentation of the Diwali Proclamation

The City Council presented the Diwali proclamation.

3.4) Recognition of Outgoing Dublin Chief of Police Nate Schmidt

The City Council made a presentation to outgoing Dublin Chief of Police Nate Schmidt, in appreciation of his dedicated service to the City of Dublin and Alameda County.

4) PUBLIC COMMENT

Todd Benson provided public comment.

Olivia Halim provided public comment.

Aaron Oehrle-Steele provided public comment.

Marlene Massetti provided public comment.

Norm Lewandowski provided public comment.

Jeanine Gillengerten provided public comment.

David Bewley provided public comment.

Shirley Lewandowski provided public comment.

John Camereon provided public comment.

5) CONSENT CALENDAR

5.1) Approved the October 1, 2024 Regular City Council Meeting Minutes.

5.2) Adopted Resolution No. 115-24 titled, "Approving the Purchase and Sale Agreement and Joint Escrow Instructions with Kathy L. Beltran for the Tassajara Road Improvements – North Dublin Ranch Drive to Quarry Lane School Project, CIP No. ST0119."

5.3) Adopted Resolution No. 116-24 titled, "Approving the Agreement with The Sourcing Group for Apparel Purchasing Services."

5.4) Received a report of payments issued from September 1, 2024 - September 30, 2024, totaling $11,108,995.91.

5.5) Adopted Resolution No. 117-24 titled, "Authorizing the City Manager to Approve Contract Change Orders with American Asphalt Repair & Resurfacing Co., Inc. for Hacienda Drive for the Annual Street Resurfacing (2024 Slurry Seal) Project, CIP No. ST0117."

5.6) Adopted Resolution No. 118-24 titled, "Accepting the Annual Street Resurfacing (July 2023 Slurry Seal) Project, CIP No. ST0117."

5.7) Adopted Resolution No. 119-24 titled, "Approving a Plan of Finance Including the Issuance of Revenue Bonds by the California Municipal Finance Authority for the Purpose of Financing and Refinancing the Acquisition and Construction of a Multifamily Rental Housing Development Known as Regional Street Senior Affordable Housing Project at 6541-6543 Regional Street."

5.9) Adopted Resolution No. 121-24 titled, "Approving a Contract Services Agreement with Flock Group Inc. for Automated License Plate Readers and Situational Awareness Camera Technology."

On a motion by Councilmember Josey, seconded by Councilmember Qaadri, and by unanimous roll call vote, the City Council adopted the Consent Calendar, except for item 5.8.

RESULT:	ADOPTED [UNANIMOUS]
MOVED BY:	Jean Josey, Councilmember
SECOND:	Kashef Qaadri, Councilmember
AYES:	McCorriston, Josey, Hu, Qaadri, Thalblum

5.8) Establishment of a Standing Finance and Investment Committee of the City Council

This item was pulled from the consent calendar for public comment.

John Morada provided public comment.

On a motion by Councilmember Qaadri and seconded by Councilmember Thalblum, and by unanimous roll call vote, the City Council adopted Resolution No. 120-24 titled, "Establishing a Standing Finance and Investment Committee."

RESULT:	ADOPTED [UNANIMOUS]
MOVED BY:	Kashef Qaadri, Councilmember
SECOND:	Janine Thalblum, Councilmember
AYES:	McCorriston, Josey, Hu, Qaadri, Thalblum

6) PUBLIC HEARING – None.

7) UNFINISHED BUSINESS

7.1) Dublin Centre Community Facilities District Formation

The City Council received a presentation regarding a proposed Community Facilities District (CFD) at the Dublin Centre project location and considered various actions to initiate proceedings to form the CFD.

Mayor McCorriston opened the public comment period.

Upon receiving no public comment, Mayor McCorriston closed the public comment period.

Mayor McCorriston called for a break at 8:40 PM.

Mayor McCorriston reconvened the meeting at 8:48 PM.

On a motion by Councilmember Josey, seconded by Councilmember Thalblum, and by a 4-to-1 roll call vote, the City Council adopted Resolution No. 122-24 titled, "Declaring Intention to Form a Community Facilities District and Levy Special Taxes in City of Dublin Community Facilities District No. 2024-1 (Dublin Centre) to Finance Certain Public Services and the Acquisition and Construction of Certain Public Facilities in and for Such Community Facilities District;" and Resolution No. 123-24 titled, "Declaring Intention to Incur Bonded Indebtedness to Finance the Acquisition and Construction of Certain Public Facilities in and for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)," with the understanding the cap on the Effective Tax Rate would be 1.75 for each individual tax zone, the developer include transparency items on their website and disclose of CDF information at the time of sale, and the Impact Fees are not included in the CFD for either services or facilities.

RESULT:	ADOPTED [4-to-1]
MOVED BY:	Jean Josey, Councilmember
SECOND:	Janine Thalblum, Councilmember
AYES:	McCorriston, Josey, Hu, Thalblum
NOES:	Qaadri

8) NEW BUSINESS – None.

9) CITY MANAGER AND CITY COUNCIL REPORTS

The City Council and Staff provided brief information-only reports, including committee reports and reports related to meetings attended at City expense (AB1234).

By consensus, the City Council directed Staff to provide a report on the usage of the accessory dwelling unit provisions and discuss at a future meeting the expansion or extension of those provisions.

10) ADJOURNMENT

Mayor McCorriston adjourned the meeting at 10:03 PM in memory of Pete Snyder, the first Mayor of Dublin.

_____
Mayor

ATTEST:

_____
City Clerk

Agenda Item 5.2

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Basketball Court Mural Art Selection
Prepared by: Shelby Perry, Recreation Coordinator

EXECUTIVE SUMMARY:

The City Council will consider a recommendation from the Heritage and Cultural Arts Commission for eight basketball court murals to be painted in Fiscal Year 2024-25.

STAFF RECOMMENDATION:

Approve the Heritage and Cultural Arts Commission's Basketball Court Mural Art Program recommendations.

FINANCIAL IMPACT:

The Basketball Court Mural Art Project, including artist stipend and supplies, is estimated to cost approximately $14,000. The project is funded by the Public Art Fund. Sufficient funds have been allocated in the Fiscal Year 2024-25 budget for this project.

DESCRIPTION:

In October 2019, the City Council approved an annual temporary art display program. Each year, Staff works with the Heritage and Cultural Arts Commission to identify the temporary art display program that will be developed and implemented that year.

On May 9, 2024, the Commission reviewed three temporary art display program options. Basketball Court Mural Art was selected as the temporary art program that will be completed in Fiscal Year 2024-25. The murals will be painted in the rectangular portion of the two "key" areas of each basketball court directly adjacent to the basketball hoops. Each artist will receive a stipend of $1,200 for each piece of artwork and the City will provide the paint and materials. This program includes painting eight basketball court murals at the following locations:

- Alamo Creek Park (2)
- Dolan Park (2)

- Ted Fairfield Park (2)
- Schaefer Ranch Park (2)

Basketball court murals transform public spaces into vibrant, artistic environments that foster community engagement and pride. The murals will provide an accessible platform for local artists to showcase their creativity while reflecting the neighborhood's culture, values, and history. Additionally, by combining art and recreation, the murals will inspire positive social interaction, enhance the visibility of sports and physical activity, and encourage a sense of belonging.

As stated in the City's Public Art Master Plan and the Call for Artists, artwork should align with the City's Mission, Vision and Values. Artwork must also be suitable for all ages. All public artwork must be produced by professional artists or by student artists working under the supervision of a professional artist or art teacher.

Staff issued a Call for Artists on July 15, 2024. This opportunity was publicized through the City's website and social media channels, the California Cultural Arts Council website, and via email to a list of interested artists, past temporary project artists, registrants in the City's Cultural Arts Database, and nearby cities with similar temporary art programs. The deadline to apply was September 9, 2024.

A total of 47 proposals were received from 22 individual artists. Forty-five of the proposals were received from 21 professional artists, and two proposals were received from one student artist. Each design proposal includes the artist's resume, statement, and design proposal.

On October 10, 2024, the Heritage and Cultural Arts Commission reviewed the artist's proposals and recommended eight proposals to the City Council. The recommended artists' design proposals are included with this Staff Report (Attachment 1). Below is a list of the recommended artists and the title of the artist's proposal.

TABLE 1: BASKETBALL KEY LOCATIONS AND ARTISTS ASSIGNMENTS

Artist	*Proposal Title*	*Basketball Key Location*
Andrew Lot	Balancing Act #1	Ted Fairfield Park
Andrew Lot	Balancing Act #2	Ted Fairfield Park
Cristina Edwards	Nothing's Impossible	Dolan Park
Cristina Edwards	Tic Tac Toe	Dolan Park
Kalani Ware	Evolution of Flora	Schaefer Ranch Park
Kalani Ware	Evolution of Flora	Schaefer Ranch Park
Kristina Smith	Perpetual Waves	Alamo Creek Park
Kristina Smith	Floating	Alamo Creek Park

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Design Proposals from Recommended Artists
2) Call for Artists Basketball Court Murals

Basketball Court Mural Art Proposal

PROPOSAL COVERSHEET:

Dublin 2024 Temporary Art Project, Basketball Court Murals
Proposals will not be accepted after Monday, September 9, 2024, at 4:00 p.m.

Artist Name: Andrew Lott

Address: [redacted]

City: Oakland State: CA Zip: 94618

Main Phone: [redacted] Other Phone: _____

E-mail Address: [redacted] Website: alottdesign.com

Please indicate experience level: ☑ Professional Artist(s) ☐ Student Artist(s)

Please indicate any specific location(s) you have proposed a design for, or check 'No Preference' if you would be willing to adapt your design(s) to fit any assigned location:

Location: Alamo Creek Park or Dolan Park ☐ No Preference

Artwork Title: Balancing Act #2

Signature of Artist: A Lott Date: 9/8/24

Co-Artist Name, if applicable: _____

Signature of Co-Artist, if applicable: _____ Date: _____

Supervising Art Professional Name, if applicable: _____

Address: _____

City: _____ State: _____ Zip: _____

Main Phone: _____ Other Phone: _____

E-mail Address: _____ Website: _____

Signature of Supervising Art Professional: _____ Date: _____

Andrew Lott

CONTACT

[redacted]

PORTFOLIO

ALOTTDESIGN.COM

SKILLS

CREATIVE SKILLS

Adobe Illustrator
Adobe Photoshop
Adobe InDesign
Procreate on iPad
Illustration
Motion Graphics
Mockup Rendering
Hand Lettering
Web Design

PROJECT SKILLS

Detail Oriented
Efficient/Organized
Team Collaborator
Creative Direction
Production Oversite
Vendor Management
Time Management

EXTRACURRICULAR

HAND LETTERING WORKSHOP
Intensive hand lettering workshop lead by distinguished lettering artist Ken Barber.

LETTERFORM ARCHIVE
Two-day workshop in type selection and pairing lead by typography expert Stephen Coles.

CHILLUSTRATORS
A monthly meet up for illustrators, artists and designers.

BIO

ABOUT ME

When not cooking up new design work Andrew can be found outdoors grilling yakitori, fly fishing in the Eastern Sierras of California, or scoping out new Bay Area restaurants with friends.

EDUCATION

CALIFORNIA STATE UNIVERSITY, CHICO
BACHELOR OF ARTS, GRAPHIC DESIGN

DIABLO VALLEY COLLEGE
ASSOCIATE ARTS DEGREE

EMPLOYMENT

ANDREW LOTT DESIGN

INDEPENDENT DESIGNER • 07/21–PRESENT

Manage freelance studio and partner with clients to deliver creative branding, design and illustration solutions. Clients I have worked with spanned across food, hospitality, construction and more.

MACKENZIE SF

CONTRACT BRAND DESIGNER • 10/22–PRESENT

Work on a project by project basis with MacKenzie SF to deliver brand identities, illustrations and on-gong brand work. MacKenzie's clientele spans industries from construction to accounting to public transportation. In all projects, I acted as a team member, interfacing with clients to help guide design decisions and provide creative direction.

S.M.W. LOCAL UNION 104

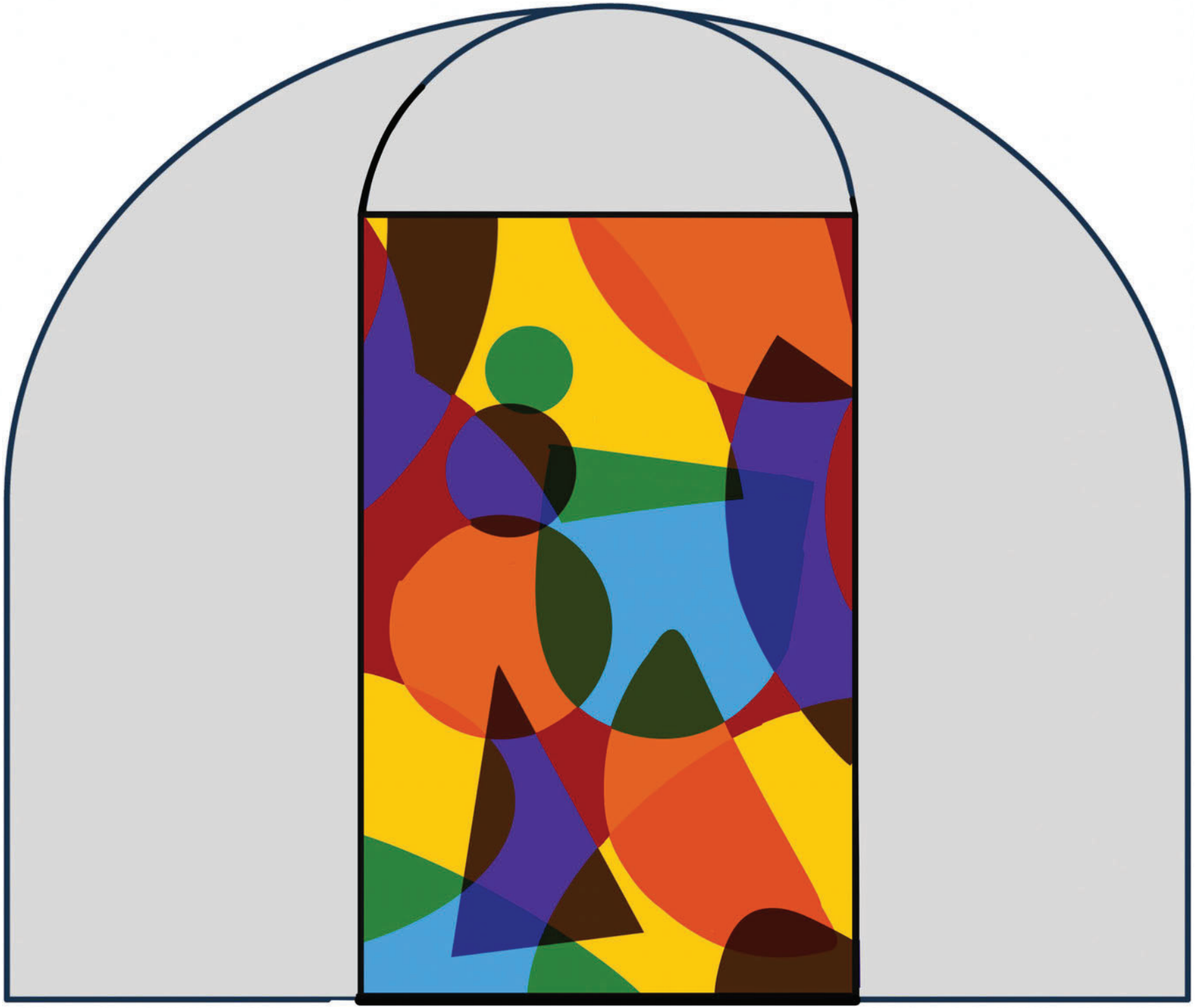
GRAPHIC DESIGNER • 06/17–07/21

Oversee all design, photography and production of quarterly newsletter mailed to 10,000 readers. Collaborate with various departments to design communications for Union campaigns. Execute daily design needs like marketing collateral, develop merchandise for members or new website assets.

BRAND MARINADE

GRAPHIC DESIGNER • 11/16–06/17

Collaborated with team to orchestrate creative brainstorming sessions, effectively translating client requirements for e-commerce solutions into designed merchandise and products. Execute design work for apparel and prepare designs for multiple print applications. Remain highly organized with large file counts of product SKUs.



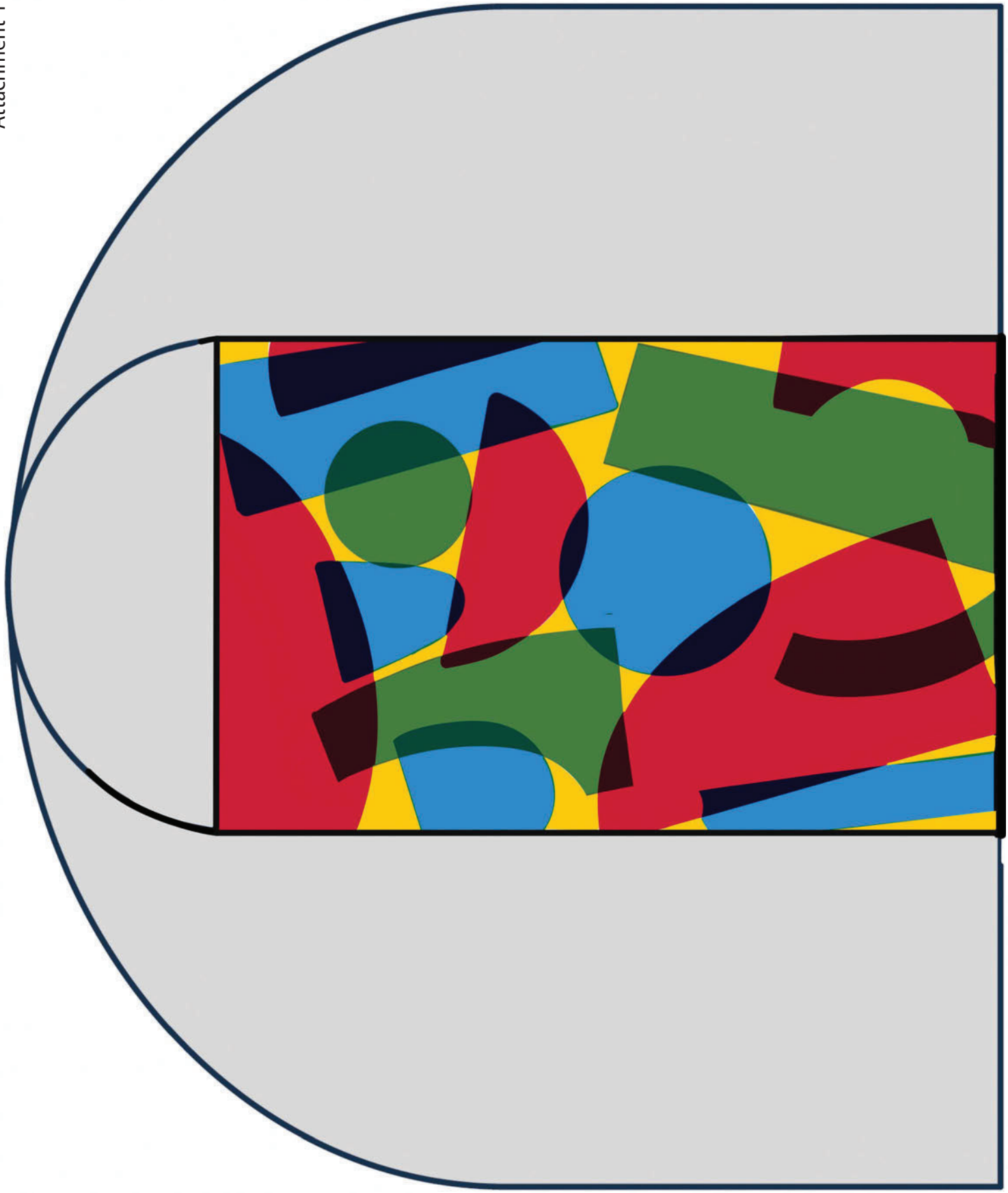
ARTWORK TITLE

Balancing Act #2

ARTIST STATEMENT

"Balancing Act 2" is the sibling of "Balancing Act #1". The idea of creating another version is that they could be paired together on the same court. Again, using fun and playful shapes I worked to create a composition that uses the idea of balance and tension at the same time. By moving around unique shapes I find an even balance of color and spacing among the layout. Utilizing a different color pallete and the same "overprint" technique the piece has a different, but still energetic feeling, like "Balancing Act #1". Like the game of basketball, this piece brings motion, energy and style to the court.

Attachment 1



ARTWORK TITLE

"Balancing Act #1"

ARTIST STATEMENT

Using fun and playful shapes, "Balancing Act #1" creates a composition that mimics a stack of objects all balancing and supporting each other. Using standard and unique shapes I was able to create visual movement with an energetic color palette. These effects are all enhanced by the "overprint" employed. As colors cross over each other the hue changes—giving the impression of transparency and colors mixing. Overall, the idea with this piece of work was to create an exciting and fun energy that goes with the game of basketball.

Basketball Court Mural Art Proposal

PROPOSAL COVERSHEET:

Dublin 2024 Temporary Art Project, Basketball Court Murals
Proposals will not be accepted after Monday, September 9, 2024, at 4:00 p.m.

Artist Name: Cristina Edwards

Address: [redacted]

City: Oakland State: CA Zip: 94608

Main Phone: [redacted] Other Phone:

E-mail Address: [redacted] Website: cristinaedwards.com

Please indicate experience level: ☒ Professional Artist(s) ☐ Student Artist(s)

Please indicate any specific location(s) you have proposed a design for, or check 'No Preference' if you would be willing to adapt your design(s) to fit any assigned location:

Location: ☒ No Preference

Artwork Title: Nothing's Impossible, Tic Tac Toe, and Sunrise in Blue & Gold

Signature of Artist: Date: 8-10-2024

Co-Artist Name, if applicable:

Signature of Co-Artist, if applicable: Date:

Supervising Art Professional Name, if applicable:

Address:

City: State: Zip:

Main Phone: Other Phone:

E-mail Address: Website**:**

Signature of Supervising Art Professional: Date:

Cristina Edwards

[redacted]

Multidisciplinary Artist. Project Manager. Educator.

PORTFOLIO

- Click HERE for Project-Specific Portfolio (Dublin Temporary Basketball Courts) or paste the following link : bit.ly/bball925
- Full Portfolio available at CristinaEdwards.com

WORK EXPERIENCE

Mural Restoration Assistant

2024 - present / San Francisco, CA

Restore large-scale public art painting on an artist team in collaboration with the original artists. Currently restoring a 90' x 25' mural in SOMA SF.

Arts Educator and Facilitator

2014-present / Throughout the United States

Teach a wide range of classes, including Painting, Stained glass, Frame Weaving, Watercolor, Ethnobotany and Poetry, Wellness and Grounding Practice, Figure Drawing, and outdoor skills.

Past partnerships include: SOMArts, SF Creativity Museum, the Lawrence Hall of Science, Lander Art Center, Balay Kreative, National Outdoor Leadership School, Sketchboard.Co, and others.

Independent Consultant

September 2023- present / Oakland, CA

Facilitator, learning designer, and relationship-builder working in aligned collaboration with organizations in the environmental and education sectors.

Nonprofit Program Manager and Facilitator

2012-2024 / Oakland, CA

In my former day job, I collaborated with leaders in the environmental space to shape organizational strategy, leadership, and vision. Versed and practiced in small, dynamic, mission-driven teams.

EDUCATION

UC Berkeley Bachelors of Science, Conservation and Resource Studies

AWARDS AND HONORS

- 2019 Staff Merit Award, Lawrence Hall of Science
- 2020 Staff Merit Award, UC Berkeley
- 2017 Merit Award for Faculty, National Outdoor Leadership School
- 2013-2015 Buick Scholar

CITY OF DUBLIN
Basketball Court Mural Proposal ***Cristina Edwards***

Artist Statement

In my proposed mural designs, I draw on my background in graphic design and public art to create visually dynamic pieces.

Inspired by playfulness, imagination, vibrant youthful energy, I infused my designs with influences from modern art, board games, and typography.

I use bold, contrasting colors to evoke a sense of joy, spontaneity, and possibility. The designs are each crafted to balance whimsy with symmetry, reflecting both the creativity, and the precision of the game of basketball.

On the next page, I've shared about my inspiration for each of the three designs I am proposing.

“Tic Tac Toe”

This bold design brings in themes of playfulness, simplicity, and the friendly match. Designed to be striking from any angle as well as at a distance.



Key dimensions:
19' x 12'

This design can be used on one or both sides of the court at any of the available locations

“Nothing’s Impossible”

Two “impossible” shapes, the Mobius Strip, and Escher’s Triangle come to life, reminding players to think outside the box: there may be a way to win that you haven’t thought of yet!



Key dimensions:
19' x 12'

This design can be used on one or both sides of the court at any of the available locations

Basketball Court Mural Art Proposal

PROPOSAL COVERSHEET:

Dublin 2024 Temporary Art Project, Basketball Court Murals
Proposals will not be accepted after Monday, September 9, 2024, at 4:00 p.m.

Artist Name: Kalani Ware

Address: [redacted]

City: Walnut Creek State: CA Zip: 94596

Main Phone: [redacted] Other Phone: _____

E-mail Address: [redacted] Website: kalaniware.com

Please indicate experience level: ■ Professional Artist(s) ☐ Student Artist(s)

Please indicate any specific location(s) you have proposed a design for, or check 'No Preference' if you would be willing to adapt your design(s) to fit any assigned location:

Location: _____ ■ No Preference

Artwork Title: Evolution of Flora

Signature of Artist: kalaniware.com Date: 9/8/24

Co-Artist Name, if applicable: N/A

Signature of Co-Artist, if applicable: _____ Date: _____

Supervising Art Professional Name, if applicable: N/A

Address: _____

City: _____ State: _____ Zip: _____

Main Phone: _____ Other Phone: _____

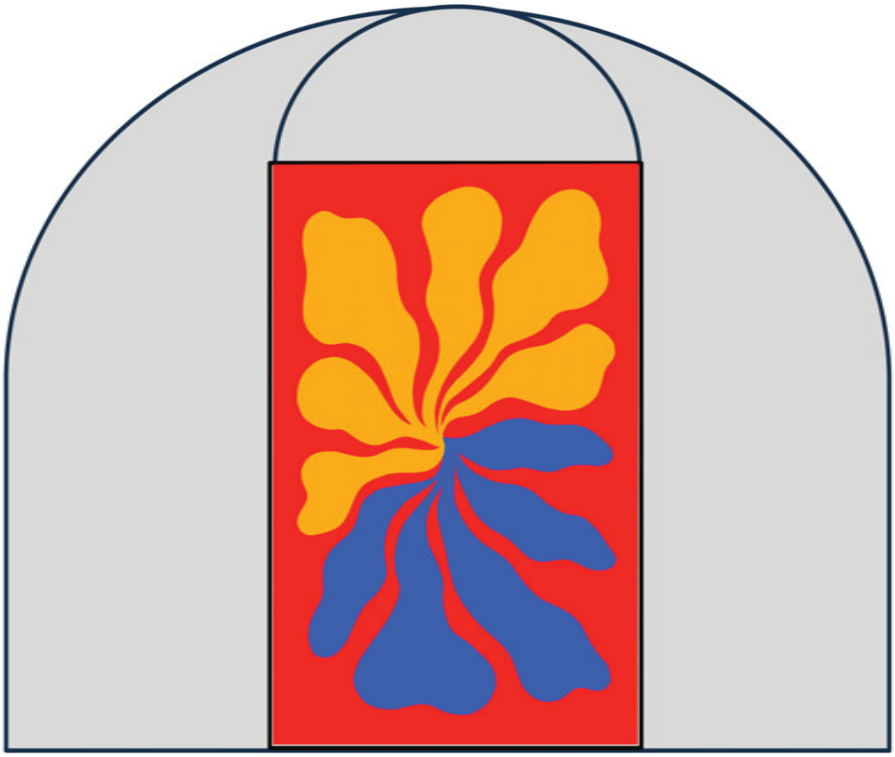
E-mail Address: _____ Website: _____

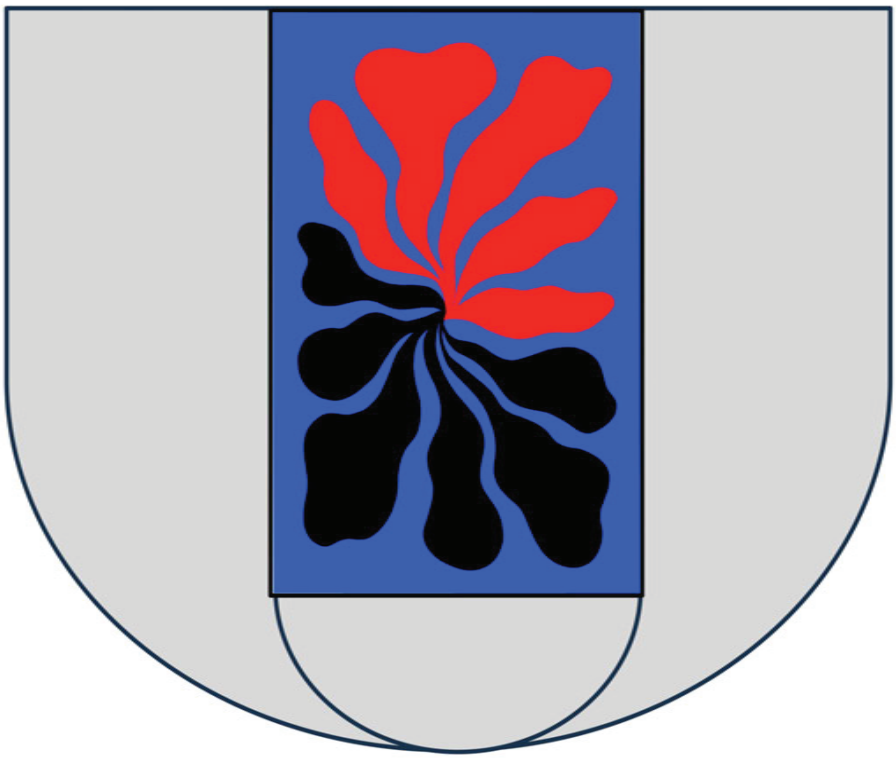
Signature of Supervising Art Professional: _____ Date: _____

Dublin temporary basektball court concept

“ Evolution of flora ”

2 designs, any location





Basketball Court Mural Art Proposal

PROPOSAL COVERSHEET:

Dublin 2024 Temporary Art Project, Basketball Court Murals
Proposals will not be accepted after Monday, September 9, 2024, at 4:00 p.m.

Artist Name: Kristina Smith

Address: [redacted]

City: Santa Clara State: CA Zip: 95054

Main Phone: [redacted] Other Phone: _____

E-mail Address: [redacted] Website: _____

Please indicate experience level: ☒ Professional Artist(s) ☐ Student Artist(s)

Please indicate any specific location(s) you have proposed a design for, or check 'No Preference' if you would be willing to adapt your design(s) to fit any assigned location:

Location: _____ ☒ No Preference

Artwork Title: Perpetual Waves

Signature of Artist: Kristina Smith Date: Sept 5, 2024

Co-Artist Name, if applicable: _____

Signature of Co-Artist, if applicable: _____ Date: _____

Supervising Art Professional Name, if applicable: _____

Address: _____

City: _____ State: _____ Zip: _____

Main Phone: _____ Other Phone: _____

E-mail Address: _____ Website: _____

Signature of Supervising Art Professional: _____ Date: _____

Dublin temporary basektball court concept

Artist statement

For this project, I am proposing two abstract pieces entitled "Evolution of Flora." These artworks are abstract interpretations of flowers, with petals that intentionally deviate from traditional forms, rendered in dynamic, vibrant, and contrasting colors. The distortion symbolizes growth—growth that reflects our personal journeys and collective life experiences.

To me, nature's representation is fundamental, and the diverse forms of flora mirror the diversity of people and cultures within our communities. I believe these pieces will not only enhance the basketball courts, but also serve as a creative expression that connects the community through shared beauty and meaning. I would be honored to contribute this artistic vision to the City of Dublin, helping to further beautify and inspire this public space.

KRISTINA SMITH

[redacted]

[redacted]

PROFILE

Kristina is a multidisciplinary creative producing physical & digital manifestations of ideas.

EXPERIENCE

Intern, Acme Studio; Oakland, CA — 2004-2005
Learned foundational elements of prototyping

Junior designer, Toy Monster; Shanghai, China — 2008-2009
Designed toys and three showrooms in Hong Kong, Shanghai, and Texas. This included wall to wall murals.

Designer, Blockware LLC; San Francisco, CA — 2009-2020
Designed 100+ consumer products in ceramics, textiles, bamboo, wood, and resin for clients such as Bed, Bath, and Beyond.

Director of Design, Blockware LLC; Sonoma, CA — 2016-2020
Oversaw and executed multiple brands development, design of products and services for both brick and mortar and eCommerce businesses.

Design Freelancer; Santa Clara, CA — 2020-present
Providing creative direction for entrepreneurs to materialize their ideas through building prototypes, technical drawings and illustrations.

EDUCATION

California College of the Arts, San Francisco, CA — Bachelors of fine arts in Industrial Design — 2007

SKILLS

- Full proficiency in Adobe creative suite
- Pattern making, sewing, 3D printing, prototyping
- Fine arts: Acrylic paint, water color, drawings

SELECTED PRESS

- Better Homes and Gardens: Storage, Fall 2012, page 23
- Real Simple, “For the Hosts” June 2021, page 36
- The San Francisco Chronicle: “Style Gift guide” Dec 2017: Rule#5 Surf backpack

Title: Perpetual Waves
Artist: Kristina Smith

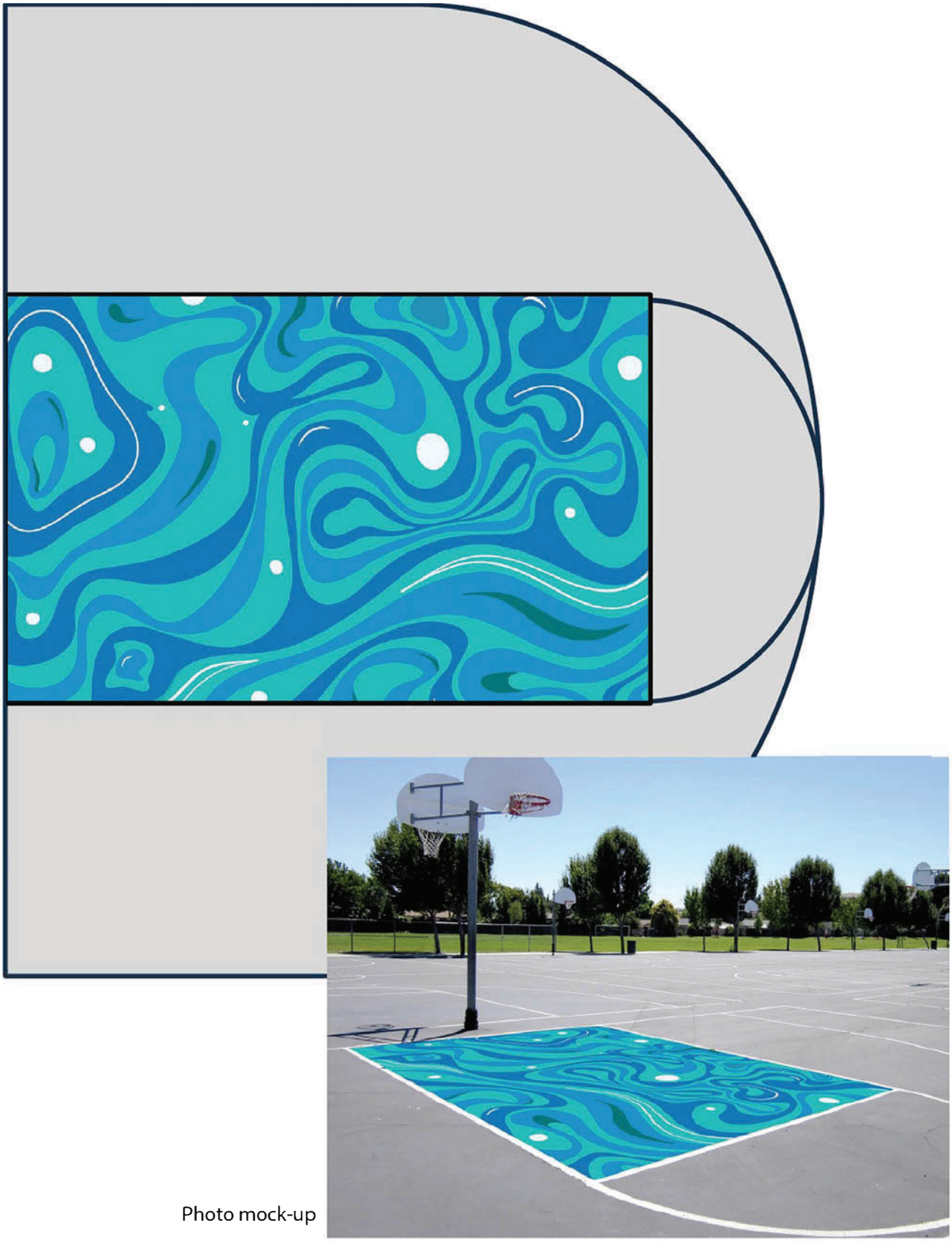


Photo mock-up

Title:

Perpetual Waves

Artist Statement:

Inspired by the ocean off the California coast- I am trying to capture the perpetual motion of the rhythmic waves and shifting translucency of the colors of the water. Water is not just imperative for life, but also symbolic form of fluidity- how we as humans have weathered challenges by fluidity, much like water weaving around rocks in a river bed. The graphic depictions emulate the steady waves that go from calm to energetic, from glassy to colliding. I hope to encourage viewers to flow with the art's undulations while contemplating the ebb and flow of community: each wave is a person, sometimes supporting another, sometimes parting ways, and sometimes uniting to create a whole body of movement.

Title: Floating
Artist: Kristina Smith

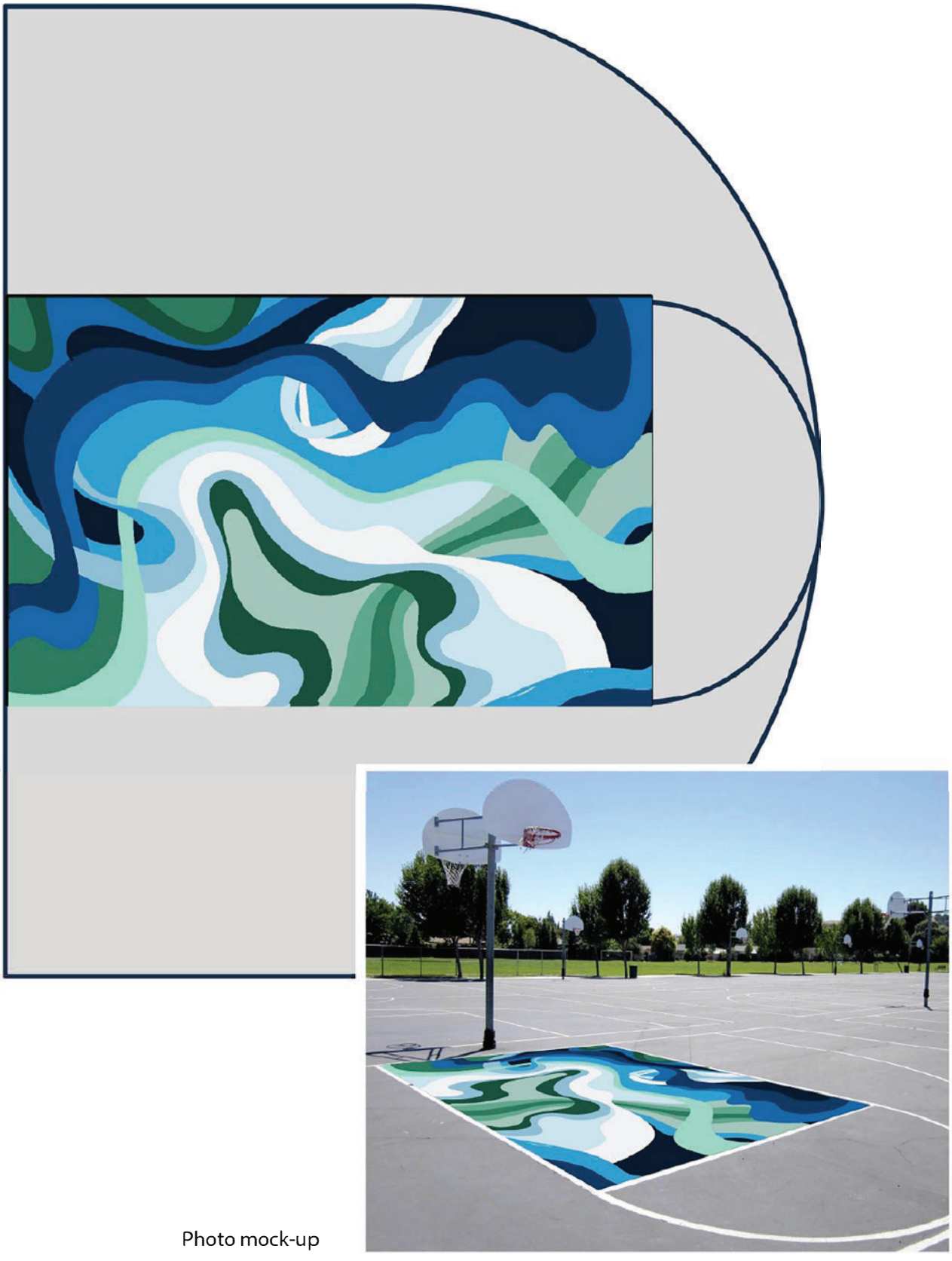


Photo mock-up

Title:

Floating

Artist Statement:

Inspired by the depths of the oceans, I hoped to capture the layers and hues of the water as well as its movement. The bright color of the water at Point Lobos swell and saturate with color as the water becomes deeper. There is a richness there that draws the eye in. Rock formations influence the flow of the water, guiding it while the water also cuts through the rock. This is an allegory for our lives, how we flow around one another and obstacles, carving out our spaces, while being influenced by those around us.

DUBLIN
CALIFORNIA
THE NEW
AMERICAN
BACKYARD

CALL FOR ARTISTS

Temporary Art Project
Basketball Court Mural

CALL ISSUE DATE: 7/18/24
CALL DEADLINE: 9/9/24, 4:00 p.m. PST

The City of Dublin invites qualified professional artists and student artists working under the supervision of a professional artist or art teacher to submit designs for an upcoming unique temporary art project. Temporary art displays are a great way to bring public art to City parks, streets, and facilities, define neighborhoods, and bring culture to the community.

BACKGROUND

For this project, the City of Dublin is seeking artists to paint murals in the key of basketball courts throughout Dublin. This unique project would include soliciting artists/muralists to complete the design and painting of each basketball court mural. These murals will make basketball courts more inviting and more fun in order to inspire and strengthen communities. The addition of artistic murals to basketball courts will also help draw people to the parks.

Artists are encouraged to be as creative as possible when approaching this project. The proposed design should be inviting and encourage patron engagement. Site-specific proposals and general proposals that the City may display at its sole discretion are acceptable. Artists are responsible for priming, painting, and sealing the mural.

Because of the nature of this project, artists will be provided with the paint and sealant to be utilized. The city intends to provide outdoor basketball court specific sealant. Red, yellow, blue, white, and black paint will be provided, and artists are expected to mix paint as needed to achieve desired colors.

Stipends of $1,200 will be provided to selected artists or artist teams. Artists may submit up to three (3) proposals and be selected for up to two (2). The stipend will be paid for each selection ($2,400 max).

LOCATIONS

Selected murals will be at various neighborhood City Parks throughout Dublin. Both keys on one basketball court will be painted with a mural. There are 4 locations which will allow for eight murals to be painted. Locations include:

- Alamo Creek Park (2)
- Dolan Park (2)
- Schaefer Ranch Park (2)
- Ted Fairfield Park (2)

PROJECT TIMELINE

July 18, 2024,	Call for Artists Issued
September 9, 2024	Proposals Due No Later Than 4:00 p.m.
October 2024	Heritage & Cultural Arts Commission Review (Tentative)
November 2024	City Council Approval of Art Proposals. (Tentative)
November 2024	Agreement(s) Execution (Tentative)
Nov - Feb 2025	Basketball Court Murals (Tentative)
April 2025	Artwork Unveiling (Tentative)

DESIGN SPECIFICATIONS

The following specifications apply:

- Artwork must align with the City of Dublin Public Art Master Plan's Vision, Purpose, and Goals (the full Public Art Master Plan can be found on the City's Public Art website).
- Projects involving the community during design/creation are encouraged but not required.
- Artwork must be suitable for all ages and in keeping with community values.
- Artwork must be an original design and the artwork of the applicant.
- Artwork must align with the City of Dublin's Adopted Mission and Vision Statements.
- There will be no wording/typography allowed in the murals.
- The lines that already exist around the key are not to be painted.
- Abstract art is preferred.

The basketball court mural will be limited to the rectangle inside the key (area highlighted in red in image below). It is the intention of the city that the selected artist will paint inside of the specified area and not circle above or on the lines of the area already painted. The basketball court mural location is subject to change at the sole discretion of the City.

BASKETBALL COURT MURAL ART EXAMPLES

Artwork created under this program is considered temporary artwork and property of the City of Dublin. Therefore, the City retains the right and sole discretion to remove, modify, sell, or replace the artwork.



ART SELECTION PROCESS

Staff will review applications for completeness. The Heritage and Cultural Arts Commission will review designs and then make a recommendation to the City Council. The City Council will review the recommended design(s) and approve an artist(s).

Selected artist(s) will be required to sign an Art Agreement, including standard Liability Waiver and Release. In the case of underage artists, the city will sign the Agreement with the Supervising Professional Artist or Art Teacher. Underage artists and underage painting assistants will be required to have a parent sign the Liability Waiver and Release.

IMPLEMENTATION PROCESS

Artists are responsible for prepping, painting the design, and sealing with a clear anti-graffiti coating. The city will provide primer, paint, and sealant. Artists are responsible for purchasing any additional painting supplies required for the project.

Artists are expected to prime, paint, and seal the art when the painting is complete. Artists may not paint over the lines of the basketball court key itself. The city will work with the artist to implement protective measures to ensure the protection of murals during the painting process.

Artists may enlist painting assistants. All painting assistants must sign a liability waiver and release. Underage painting assistants must have a parent sign the liability waiver and release.

Student artists must be supervised by a professional artist, who is responsible for the artwork of the student. Student artists must provide their professional artist's qualifications with their application. Student artists and their teacher/professional artist will be required to meet with Staff prior to starting the project to ensure they understand the City's expectations.

Upon completion of the Basketball Court Mural, City Staff will meet with the artist at the site to inspect/approve the artwork and take a publicity photo of the artwork.

PROPOSAL SPECIFICATIONS

Artists are welcome to submit up to three design proposals for this project. The proposal shall be submitted electronically, which needs to include all required attachments. The acceptable file type for the attachment is PDF. Required attachments include:

a. **Completed Coversheet:** Use the form provided at the end of this application.

b. **Artist Qualifications:** Include the biography or professional resume of each artist involved. Student artists should include their biographies/resumes and that of the professional artist or art teacher who serves as the team's supervisor. This should include a portfolio of past work relevant to this project.

c. **Artist Statement:** Provide a brief statement about your proposed artwork. This could include your source of inspiration, the significance of the design, or a comment on the style or technique you have proposed.

d. **Design:** Renderings should include dimensions and scale of the artwork. If you wish to be considered for a specific location or locations, please label the rendering with the location name. If you have no preference, label the rendering "Any." Label each rendering with your name.

DIRECTIONS FOR SUBMITTAL

Proposals for this project must be submitted electronically. **Submit one electronic copy of each proposal to: shelby.perry@dublin.ca.gov.** The subject line for each proposal shall include: "Basketball Court Mural Art Proposal 2024." Proposals may be included as email attachments or delivered via a filesharing website. Proposals are limited to five pages. Please include:

a) Completed Proposal Coversheet
b) One page resume
c) Color design rendering using the provided basketball court template (limit 3 designs)
d) Title of the art and Artist Statement describing the design(s)

COSTS INCURRED IN RESPONDING TO THE PROPOSAL

The City of Dublin shall not be liable for any costs incurred by the artist(s) in responding to this request for a design proposal or for any costs incurred if the artist chooses to provide a mock-up.

SUBMISSION DEADLINE

All proposals must be received by Shelby Perry, Recreation Coordinator, by **September 9, 2024, at 4:00 p.m**. It is the applicant's responsibility to verify the proposal's receipt by the scheduled deadline.

CONTACT INFORMATION

Name/Title:	Shelby Perry, Recreation Coordinator
Phone:	(925) 556-4509
Email:	Shelby.Perry@dublin.ca.gov
Address:	City of Dublin - Parks and Community Services 100 Civic Plaza Dublin, CA. 94568

Basketball Court Mural Art Proposal

PROPOSAL COVERSHEET:

Dublin 2024 Temporary Art Project, Basketball Court Murals
Proposals will not be accepted after Monday, September 9, 2024, at 4:00 p.m.

Artist Name:_____

Address:_____

City: _____ State: _____ Zip:_____

Main Phone:_____Other Phone:_____

E-mail Address: _____Website: _____

Please indicate experience level: ☐ Professional Artist(s) ☐ Student Artist(s)

Please indicate any specific location(s) you have proposed a design for, or check 'No Preference' if you would be willing to adapt your design(s) to fit any assigned location:

Location:_____ ☐ No Preference

Artwork Title:_____

Signature of Artist: _____Date: _____

Co-Artist Name, if applicable:_____

Signature of Co-Artist, if applicable: _____Date:_____

Supervising Art Professional Name, if applicable:_____

Address: _____

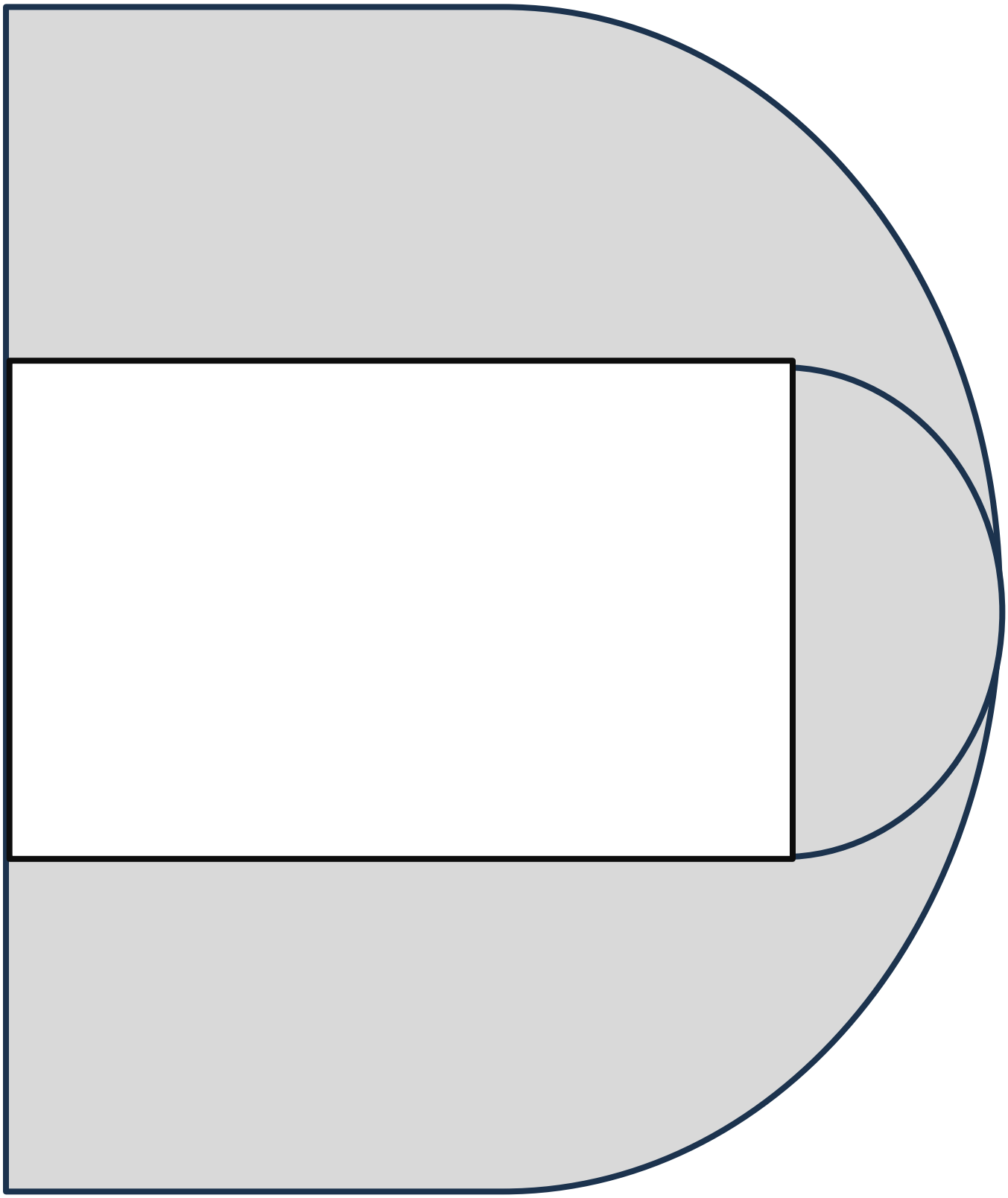
City: _____ State: _____ Zip:_____

Main Phone: _____Other Phone: _____

E-mail Address: _____Website**:** _____

Signature of Supervising Art Professional: _____Date: _____

Exhibit A – Please use this diagram or similar format of a basketball key to show the image you would like to paint (only white area will be painted).



Agenda Item 5.3

STAFF REPORT

CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Purchase of Replacement Stage and Dance Floor for the Shannon Community Center

Prepared by: Shaun Chilkotowsky, Parks & Community Services Manager

EXECUTIVE SUMMARY:

The City Council will consider authorizing the purchase of a replacement stage, dance floor, and related equipment for the Shannon Community Center from Mity-Lite.

STAFF RECOMMENDATION:

Adopt the **Resolution** Authorizing the Purchase of a Replacement Stage, Dance Floor, and Related Equipment for the Shannon Community Center from Mity-Lite.

FINANCIAL IMPACT:

The purchase is estimated at $102,861, per the quote provided by Mity-Lite. The resolution approving the purchase authorizes up to $120,000, which is the total budget included in the Fiscal Year 2024-25 Adopted Budget for this purpose.

DESCRIPTION:

The City replaces furniture and other equipment when such items reach the end of service life or become unsafe for use. The stage and dance floor at the Shannon Community Center are both over 15 years old and are scheduled to be replaced. The Fiscal Year 2024-25 budget includes a $120,000 appropriation to replace the stage and dance floor.

The dance floor consists of 4’ x 4’ squares that can be configured in a variety of sizes, with a maximum size of 28’ X 32’. The stage consists of 14 4’ X 8’ panels that can be set up in several configurations. Both are used for city meetings, private events, training, recreation programs, and other activities. On average, both are utilized an average of once or twice per week throughout the year.

Staff proposes to procure a new stage and dance floor from Mity-Lite, a commercial furniture manufacturer. The City has existing Mity-Lite brand furnishings that have performed well. Mity-Lite offers a competitive three-year warranty and delivers customer service and support. The cost estimate to replace the stage and dance floor is approximately $103,000. Staff proposes to include a contingency reserve up to the $120,000 budget appropriation for additional costs associated with this procurement.

City Council approval is required for purchases of $45,000 or more and such purchases are required to comply with the competitive bidding process as described in the Dublin Municipal Code (DMC) Section 2.36. DMC Section 2.36.100.B.9 provides for an exception to the competitive bidding process "When another public agency has administered a competitive bidding process and has a current valid agreement for the same or substantially similar consultant or professional services, general services, supplies, or equipment."

The Department of Government Services (DGS) Multiple Award Schedules are long-term government contracts with commercial firms providing federal, state, and local government buyers with access to commercial supplies and services at discount pricing. Mity-Lite has a valid pricing agreement (CMAS #4-24-09-1040) publicly bid by the DGS and BuyBoard, a purchasing cooperative, which is valid through March 2025. This agreement with Mity-Lite meets the DMC provisions for a publicly bid agreement.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

None.

ATTACHMENTS:

1) Resolution Authorizing the Purchase of a Replacement Stage, Dance Floor, and Related Equipment for the Shannon Community Center from Mity-Lite
2) Exhibit A to the Resolution - Mity-Lite Government Pricing Agreement

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

AUTHORIZING THE PURCHASE OF A REPLACEMENT STAGE, DANCE FLOOR, AND RELATED EQUIPMENT FOR THE SHANNON COMMUNITY CENTER FROM MITY-LITE

WHEREAS, the City requires chairs, tables, and related equipment such as a stage and dance floor at the Shannon Community Center, and routinely replaces furniture and related equipment that has reached the end of its useful life; and

WHEREAS, the stage and dance floor at the Shannon Community Center are over 15 years old, have reached the end of service life, and are proposed for replacement from Mity-Lite, a commercial furniture manufacturer; and

WHEREAS, the replacement stage and dance floor is estimated to cost approximately $103,000. A total of $120,000 was included in the Fiscal Year 2024-25 budget for this purchase; and

WHEREAS, City Council approval is required for purchases of $45,000 or more and such purchases are required to comply with the competitive bidding process as described in the Dublin Municipal Code (DMC). DMC Section 2.36.100(B)(9) allows for exceptions to the typical public bidding process when the City is able to procure items from a competitive bid process administered by another public agency; and

WHEREAS, Mity-Lite has a valid pricing agreement (CMAS #4-24-09-1040) attached hereto as **Exhibit A**, publicly bid by the California Department of General Services and BuyBoard, a purchasing cooperative which meets the DMC provisions for a publicly bid agreement, and the contract is valid through March, 2025.

NOW, THEREFORE, BE IT RESOLVED that the Dublin City Council hereby authorizes the City Manager to procure a stage, dance floor, and related equipment from MityLite at a cost that is not to exceed $120,000 under a purchasing agreement previously publicly bid by the California Department of General Services and BuyBoard, and valid through the term of the contract.

{Signatures on the following page}

PASSED, APPROVED AND ADOPTED this 5th day of November 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

DGS CALIFORNIA DEPARTMENT OF GENERAL SERVICES

Procurement Division
707 Third Street, 2nd Floor, MS #2-202
West Sacramento, CA 95605-2811

State of California

MULTIPLE AWARD SCHEDULE

NON-MANDATORY

Mity-Lite, Inc.

CMAS NUMBER:	**4-24-09-1040**
CMAS TERM DATES:	09/19/2024 through 03/31/2025
EFFECTIVE DATE:	09/19/2024
CMAS CATEGORY:	Non-Information Technology Commodities
APPLICABLE CMAS TERMS & CONDITIONS:	March 1, 2023
MAXIMUM ORDER LIMIT:	State Agencies: **See Purchasing Authority Dollar Threshold provision** Local Government Agencies: **Unlimited**
FOR USE BY:	State & Local Government Agencies
BASE BUYBOARD #:	667-22
BASE BUYBOARD HOLDER:	Mity-Lite
PROGRAM ANALYST	John Dickinson John.Dickinson@dgs.ca.gov

This California Multiple Award Schedule (CMAS) provides for the purchase and warranty of furniture for school, office, science, library and dormitory.

NOTICE: Products and/or services on this CMAS may be available on a Mandatory State Contract. If this is the case, the use of this CMAS is restricted unless the State agency has an approved exemption as explained in the State Contract User Instructions. Information regarding State Contracts can be obtained at the: State Contracts Index Listing. This requirement is not applicable to local government agencies.

Any reference to a specific manufacturer's or publisher's warranty or terms and conditions as shown in the base contract are not applicable to this CMAS.

State agencies cannot use this CMAS to purchase products available through the California Prison Industry Authority (CALPIA) without a one-time exemption from CALPIA. Agencies may request an exemption at the CALPIA website. A copy of the approved exemption must be kept with the purchase order in the procurement file for audit purposes.

CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
MITY-LITE, INC.
CMAS NUMBER 4-24-09-1040

The most current Ordering Instructions and Special Provisions, CMAS Terms and Conditions, and products and/or services are included herein. All purchase orders issued by State agencies shall incorporate these Ordering Instructions and Special Provisions and CMAS Terms and Conditions.

Agency non-compliance with the requirements may result in the loss of CMAS program delegated purchasing authority.

CMAS contractor non-compliance with the requirements may result in termination.

CALIFORNIA MULTIPLE AWARD SCHEDULE (CMAS)
MITY-LITE, INC.
CMAS NUMBER 4-24-09-1040

CMAS PRODUCT & SERVICE CODES

Product & Service Codes listed below are for marketing purposes only. Review the base contract for the products and/or services available.

Brand-Mity-Lite
Furniture-Chairs
Furniture-Chairs Stacking
Furniture-Classroom
Furniture-Conference Room
Furniture-Folding Chairs
Furniture-Library
Furniture-Tables
Furniture-Upholstered

AVAILABLE PRODUCTS AND/OR SERVICES

This CMAS provides for the purchase and warranty of furniture for school, office, science, library and dormitory.

The ordering agency must verify all products are currently available on the base BuyBoard contract. To access the Mity-Lite pricing go to the link: https://www.buyboard.com/home.aspx, and create an account and login. Once logged in, go to the "Shop" tab and click on "Vendors". Type "Mity-Lite" in the vendors search box, and then type the contract number "667-22" in the contracts search box. Then click on "See Products" to view the available products and pricing on the base BuyBoard contract.

ISSUE PURCHASE ORDER TO

Agency purchase orders must be sent to the following:

Mity-Lite, Inc.
1301 West 400 North
Orem, UT 84057
Attn: John King

E-mail: john.king@mityinc.com

Agencies with questions regarding products and/or services may contact the CMAS contractor as follows:

Contact: John King
Phone: (800) 362-5820
E-mail: john.king@mityinc.com
Website: www.mitylite.com

QUOTE ACKNOWLEDGEMENT

THIS IS NOT AN INVOICE

Created On: 8/20/2024

Sales Quote Number: SQ65842

Mity Customer Number: C1325850

Deposit required. Amount subject to credit approval.

This quote contains generic items for budget purposes.
The product details must be completed prior to your order being placed.

Bill To:
CITY OF DUBLIN
100 CIVIC PLAZA
DUBLIN, CA 94568
United States

Sell To:
CITY OF DUBLIN COMMUNITY SERVICE DEPT.

100 CIVIC PLAZA
DUBLIN, CA 94568
United States

Ship To:
CITY OF DUBLIN COMMUNITY SERVICE
100 CIVIC PLAZA
DUBLIN, CA 94568
United States

Ship Via	Payment Terms	Sales Person
ORIGIN, Freight Prepaid	Net 30 Days	John King

Item No.	Description	UOM	QTY	Unit Price	Total Price
STGFR4X8-1624	MOBILE STAGE 4X8 FOLD-N-ROLL 16" - 24" Height: 18'' - 24'' Black Poly Trac top Versa Roll Stage	Each	14	$2,406.16	$33,686.24
STGTILTTOTE1624	MOBILE STAGE TILT TOTE STAIR 16" - 24"	Each	2	$694.00	$1,388.00
MAGKIT28X32STL2MV3	MAGNATTACH V3 DANCE FLOOR KIT 28X32 |Panel: Studio Teak| Edge & Corner Color: Silver Sand|Panels: 56|Edges: 26|Corners: 4| Carts: 3	Kit	1	$48,805.34	$48,805.34
	Freight Estimate - XPO OREM #153928		1	$2,774.00	$2,774.00
	Freight Estimate - 16' truck MI #153927		1	$7,610.00	$7,610.00
	CMAS #4-24-09-1040				

Subtotal	**$94,263.58**
Sales Tax	**$8,597.65**
Quote Total	**$102,861.23**

THANK YOU FOR CHOOSING MITY!

Signature: _____ ***Date:*** _____

**** NET Pricing Applied. * Quotes are valid for 30-days. * Delivery is Dock-to-Dock. * Sales Tax may be applicable.***
**** Customer is responsible for offloading order at delivery time unless otherwise prearranged.***
****Freight Quotes are estimates. The Freight charge on your order, will reflect the current freight cost the day the order is placed.***

** Mity, Inc. charges a 3% processing fee for all credit card payments.*

MityLite Inc. P.O. BOX 732698, Dallas, TX, 75373-2698 US | PHONE 801-224-0589 ext 4200 FAX 801-224-6191

Agenda Item 5.4

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Sunflower Hill at Grace Pointe Project Affordable Housing Assistance Agreement
Prepared by: Jason Earl, Senior Management Analyst

EXECUTIVE SUMMARY:

The City Council will consider approving an Affordable Housing Assistance Agreement with Sunflower Grace, L.P., for the development of the proposed 60-unit Sunflower Hill at Grace Pointe affordable housing project. The project will be located within the Dublin Centre project and provide affordable housing for those with intellectual and developmental disabilities.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Affordable Housing Assistance Agreement Between the City of Dublin and Sunflower Grace, L.P., and approve the budget change.

FINANCIAL IMPACT:

Funding to support the proposed affordable housing project will come from the City's Affordable Housing Fund. If approved, the City would loan the developer $5 million in the form of a $2 million predevelopment loan and a $3 million construction loan. Approval of the loan would require a budget change (Attachment 3). There is sufficient fund balance available in the City's Affordable Housing Fund to accommodate the budget change.

DESCRIPTION:

Background
Sunflower Hill in partnership with Satellite Affordable Housing Associates (SAHA) proposes development of a 60-unit low- and very-low-income affordable housing project for those with intellectual and developmental disabilities (I/DD). This project will be located on part of the Dublin Centre (DC) site. The DC site is approximately 76 acres and will have 600 housing units and 265,000 square feet of retail commercial development. It is bounded by Tassajara Road, Gleason Drive, Brannigan Street and I-580. This site has been zoned for Planned Development by the City

Council on November 15, 2022 (Ordinance No. 14-22). This affordable housing project will be seeking project entitlements at a future date.



The Development Agreement for the DC was approved by City Council on December 6, 2022. As part of the master developer's compliance with the Inclusionary Zoning Ordinance, the master developer agreed to donate a 1.83-acre site in the DC to the City of Dublin or its designee. Sunflower Hill will be receiving the site to construct their affordable housing project.

On May 21, 2024, the City Council discussed allocating $5 million in Affordable Housing Funds to the proposed Grace Pointe project. The City Council directed Staff to bring back a funding agreement for their consideration. This Affordable Housing Assistance Agreement is being brought for consideration to allocate $5 million of Affordable Housing Funds for the Sunflower Hill at Grace Pointe project.

Analysis

An Affordable Housing Assistance Agreement has been prepared for the Grace Pointe project. The Agreement sets forth the terms for the City's financial commitment of $5 million of Affordable Housing Funds to the project, including a $2 million predevelopment loan and a $3 million construction loan. The predevelopment loan is used for soft costs such as architectural, engineering, site plans, permitting, and legal fees to submit an application to the City for entitlement. The construction loan covers hard costs to construct and build affordable housing. This permanent financing loan accrues 3% interest and repayment begins after construction is complete. A Schedule of Performance is included as Exhibit E to the Agreement. This schedule presents a timetable and lists the milestones to be completed by the developer and provides target completion dates. This provides the City with the ability to ensure that the development progresses in a timely manner. The developer may request extensions from the City Manager due to adverse conditions and/or the inability to obtain financing to complete the work.

The City Council Resolution approving the Affordable Housing Assistance Agreement is included

as Attachment 1 with the Affordable Housing Assistance Agreement included as Attachment 2.

STRATEGIC PLAN INITIATIVE:

Strategy 3: Housing Inclusivity and Affordability
Objective A: Implement the goals, policies, and programs in the 2023-2031 Housing Element.
Objective B: Support efforts to produce housing affordable at all levels of income.
Objective E: Support efforts to address housing for special needs communities.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted and a copy of this Staff Report was provided to the Applicant.

ATTACHMENTS:

1) Resolution Approving an Affordable Housing Assistance Agreement Between the City of Dublin and Sunflower Grace, L.P.
2) Exhibit A to the Resolution – Affordable Housing Assistance Agreement for Sunflower Hill at Grace Pointe
3) Budget Change Form

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

APPROVING AN AFFORDABLE HOUSING ASSISTANCE AGREEMENT BETWEEN THE CITY OF DUBLIN AND SUNFLOWER GRACE, L.P.

WHEREAS, Sunflower Grace, L.P., a limited partnership between Satellite Affordable Housing Associates (SAHA) as the Administrative General Partner, and Sunflower Hill a non-profit co-developer of affordable residential communities, as the Managing General Partner, is seeking approval of an Affordable Housing Assistance Agreement for the 60-unit Sunflower Hill at Grace Pointe Project, for the development of extremely low-income and lower-income affordable housing for those with intellectual and developmental disabilities (I/DD) located at the Dublin Centre (DC); and

WHEREAS, on May 21, 2024, the City Council directed staff to bring back a funding agreement to allocate $5 million in Affordable Housing Funds to Sunflower Grace L.P., for the Sunflower Hill at Grace Pointe project; and

WHEREAS, under the proposed Affordable Housing Assistance Agreement the City will make a $5 million loan in the form of a $2 million predevelopment loan and a $3 million construction loan to Sunflower Grace, L.P., for the Sunflower Hill at Grace Pointe project (the "City Affordable Housing Loan"); and

WHEREAS, pursuant to the Affordable Housing Assistance Agreement, Sunflower Grace, L.P. would execute a Secured Promissory Note ("City Loan Promissory Note") promising to repay the City Affordable Housing Loan, and a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing ("City Loan Deed of Trust") securing the City Loan Promissory Note; and

WHEREAS, pursuant to the Affordable Housing Assistance Agreement, the City and Sunflower Grace, L.P. would execute an Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants ("Regulatory Agreement") that would require all of the units (except for one on-site manager's unit) to be rented at an affordable housing cost to low- and extremely-low income households for those with I/DD; and

WHEREAS, Article 34 of the Constitution of California requires new "low rent housing projects" that are "developed, constructed, or acquired" by public bodies to be authorized by a public vote, and pursuant to California Health and Safety Code Section 37001.5 the words "developed, constructed, or acquired" as used in Article 34 of the Constitution of California "shall not be interpreted to apply to activities of a state public body when that body…provides assistance to a low-rent housing project and monitors construction or rehabilitation of that project and compliance with conditions of that assistance to the extent of: (1) Carrying out routine governmental functions; (2) Performing conventional activities of a lender; [and] (3) Imposing constitutionally mandated or statutorily authorized conditions accepted by a grantee of assistance;" and

WHEREAS, the assistance to be provided by the City for the development pursuant to the Affordable Housing Assistance Agreement solely consists of: (1) carrying out routine governmental functions; (2) performing conventional activities of a lender; and (3) imposing constitutionally mandated or statutorily authorized conditions accepted by a grantee of assistance

within the meaning of California Health and Safety Code Section 37001.5, and therefore is not subject to the requirements of Article 34 of the Constitution of California; and

WHEREAS, pursuant to California Health and Safety Code Section 37001(h)(4), the term "low-rent housing project," as defined in Section 1 of Article 34 of the Constitution of California, does not apply to any development that consists of the acquisition, rehabilitation, reconstruction, alteration work, new construction, or any combination thereof, of lodging facilities or dwelling units using an allocation of federal or state low-income housing tax credits from the California Tax Credit Allocation Committee; and

WHEREAS, Sunflower Grace, L.P. will apply for and is expected to receive an allocation of federal or state low-income housing tax credits from the California Tax Credit Allocation Committee for the Development, and upon receipt of such allocation the Development will not be subject to the requirements of Article 34 of the Constitution of California; and

WHEREAS, the approval of this resolution shall be the date of the notice of funding commitment and the date of adoption of the resolution approving this proposal for purposes of California Health and Safety Code Section 36005.

NOW, THEREFORE, BE IT RESOLVED that the Dublin City Council hereby approves the Affordable Housing Assistance Agreement, City Promissory Note, City Deed of Trust, and City Regulatory Agreement between the City of Dublin and Sunflower Grace L.P., substantially in the form attached as **Exhibit A** to this Resolution.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the Affordable Housing Assistance Agreement and Regulatory Agreement, attached hereto as **Exhibit A**, make any necessary, non-substantive changes to such documents, sign any further documents and take any further actions as necessary to carry out the intent of this Resolution.

PASSED, APPROVED AND ADOPTED this 5th day of November 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

AFFORDABLE HOUSING ASSISTANCE AGREEMENT

by and between

THE CITY OF DUBLIN

and

SUNFLOWER GRACE, L.P.

(Sunflower Hill at Grace Pointe)

AFFORDABLE HOUSING ASSISTANCE AGREEMENT
(Sunflower Hill at Grace Pointe)

THIS AFFORDABLE HOUSING ASSISTANCE AGREEMENT (this "**Agreement**") is entered into effective as of November 5, 2024 ("**Effective Date**") by and between the CITY OF DUBLIN, a California municipal corporation ("City"), and SUNFLOWER GRACE, L.P., a California limited partnership ("**Developer**"). City and Developer are hereinafter collectively referred to as the "**Parties**."

RECITALS

A. Landsea Homes of California, LLC, a Delaware limited liability company ("**Master Developer**"), is the owner and developer of approximately 76.9 acres of undeveloped real property in the City of Dublin located within the Eastern Dublin Specific Plan, known as the "Dublin Centre (DC) Project." Master Developer has proposed to develop a housing development on the Dublin Centre (DC) Project site which will include up to 500 market rate housing units, 100 affordable units and 100 accessory dwelling units.

B. In order to satisfy the inclusionary housing requirements of the City with respect to the Dublin Center (DC) Project, Master Developer and City have entered into a Development Agreement which provides for Master Developer to donate to Developer approximately 1.83 acres of undeveloped real property located within the Dublin Centre (DC) Project site (the "**Property**") for the development of an affordable housing complex thereon (the "**Development**").

C. In order to financially assist the Development, City and Developer desire for City to provide a low-interest loan of Five Million Dollars ($5,000,000) to Developer (the "**City Loan**") pursuant to the terms and conditions set forth in this Agreement. Two Million Dollars ($2,000,000) of the City Loan will be used to pay for predevelopment expenses of the Development, and Three Million Dollars ($3,000,000) of the City Loan will be used for to pay for a portion of the cost of construction of the Development.

D. Developer has represented to the City, and the City has determined that the Developer has the necessary expertise, skill and ability to carry out the commitments set forth in this Agreement. The City has further determined that this Agreement is in the best interests of the City, and will materially contribute to the improvement of the City by improving the supply of affordable housing therein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

ARTICLE I
DEFINITIONS

1. Definitions. The following terms shall have the meanings set forth in the Sections referenced below whenever used in this Agreement and the Exhibits attached hereto. Additional terms are defined in the Recitals and text of this Agreement.

(a) "**Agreement**" means this Affordable Housing Assistance Agreement, including the attached Exhibits and all subsequent amendments to this Agreement and implementation agreements.

(b) "**Certificate of Completion**" means the certificate to be provided by City to Developer in accordance with Section 3.13, in the form attached hereto as Exhibit H.

(c) "**City**" means the City of Dublin, a California municipal corporation.

(d) "**City Deed of Trust**" means the deed of trust that will encumber the Developer's interest in the Property to secure repayment of the City Promissory Note, and will be recorded against the Property, substantially in the form attached hereto as Exhibit D and incorporated herein.

(e) "**City Documents**" means, collectively, this Agreement, the City Promissory Note, the City Deed of Trust, the City Regulatory Agreement, and all other documents required to be executed by the Developer in connection with the transaction contemplated by this Agreement.

(f) "**City Loan**" means the loan from the City to the Developer in the amount of Five Million Dollars ($5,000,000), evidenced by the City Promissory Note.

(g) "**City Manager**" means the City Manager of the City.

(h) "**City Promissory Note**" means the promissory note that will evidence the Developer's obligation to repay the City Loan, substantially in the form attached hereto as Exhibit C and incorporated herein.

(i) "**City Prorata Percentage**" has the meaning set forth in Section 4.9(b).

(j) "**City Regulatory Agreement**" means the regulatory agreement and declaration of restrictive covenants to be executed by the Parties and recorded against the Property, substantially in the form attached hereto as Exhibit G and incorporated herein.

(k) "**Conditions of Approval**" has the meaning set forth in Section 3.2.

(l) "**Construction Loan Closing**" means the close of escrow for the Developer's construction financing for the construction of the Development.

(m) "**Construction Plans**" has the meaning set forth in Section 3.9.

(n) "**Council Members**" means the members of the City Council of the City.

(o) "**County**" means the County of Alameda, California.

(p) "**Developer**" means Sunflower Grace, L.P., a California limited partnership , and its successors and assigns.

(q) "**Development**" means the Property and the Improvements.

(r) "**Environmental Laws**" has the meaning set forth in Section 8.4.

(s) "**Event of Developer Default**" has the meaning set forth in Section 9.1.

(t) "**Event of City Default**" has the meaning set forth in Section 9.2.

(u) "**Hazardous Materials**" has the meaning set forth in Section 8.3.

(v) "**Improvements**" means: (i) approximately sixty (60) residential units, including one (1) manager's unit, to be constructed in accordance with this Agreement, and (ii) related onsite improvements, parking, landscaping and other onsite improvements located or to be located on the Property, and all onsite and offsite improvements required by the City, all as more particularly set forth in the Scope of Development attached as Exhibit F.

(w) "**Indemnitees**" means the City and its elected and appointed officers, officials, employees, agents, consultants, and contractors.

(x) "**Investor**" means a tax credit investor to be identified by written notice from Developer to City.

(y) "**Master Developer**" means Landsea Homes of California, LLC, a Delaware limited liability company.

(z) "**Parties**" means the City and the Developer. "**Party**" means either the City or the Developer.

(aa) "**Partnership Agreement**" means the limited partnership agreement of the Developer, as it may be amended and restated.

(bb) "**Preliminary Financing Plan**" means the Developer's Financing Plan for financing the acquisition of the Property and the construction of the Development in the form attached hereto as Exhibit B and incorporated herein.

(cc) "**Prevailing Wage Law**" has the meaning set forth in Section 3.15.

(dd) "**Property**" means the real property to be acquired and developed by the Developer pursuant to this Agreement, which real property is indicated on Exhibit A which is incorporated herein.

(ee) "**Residual Receipts**" means the excess of annual Operating Revenues over annual Operating Expenses for the Development. "Operating Revenues" means all income derived from the Development, and includes, without limitation: (i) rents; (ii) rent subsidy payments received on behalf of tenants; and (iii) receipts from laundry, parking, vending, or other services in which a fee is charged. "**Operating Expenses**" means all direct costs and expenses necessary to operate the Development including: (1) debt service on any loans secured by the Property as described in the Revised Financing Plan or otherwise approved by City, provided that such loans have been used to develop or improve the Development (or to refinance loans used for development or improvement of the Development); (2) resident service program and property management fees and costs; (3) property taxes and assessments (if any); (4) insurance premiums; (5) maintenance and repair; (6) reasonable payments to reserves for operating contingencies, replacement of capital items, and other reserve uses in such amounts as are required by the loans described in paragraph (1); (7) deferred developer fee to the Developer for development services for the Development in such amount as set forth in the Revised Financing Plan, as such amount may be updated by the final cost certification upon completion of construction; (8) credit adjuster payments, limited partner loans, and developer loans, all as set forth in the Partnership Agreement; and (9) payments for partnership management fee, asset management fees, and other fees payable to a partner of the Partnership pursuant to the Partnership Agreement, in such amounts as are set forth in the Revised Financing Plan, including any annual inflationary increases included in the Revised Financing Plan.

(ff) "**Revised Financing Plan**" means the Developer's updated and revised Financing Plan for financing the construction of the Development approved by the City pursuant to Section 4.5 hereof.

(gg) "**Schedule of Performance**" means the summary schedule of actions to be taken by the Parties pursuant to this Agreement to achieve the construction of the Improvements. The Schedule of Performance is attached to this Agreement as Exhibit E.

(hh) "**Scope of Development**" means the description of the Development which is attached to this Agreement as Exhibit F.

(ii) "**Term**" means the term of this Agreement, which shall commence on the Effective Date and shall continue until expiration or termination of the City Regulatory Agreement, except for such provisions hereof which survive the expiration or termination of the City Regulatory Agreement.

(jj) "**Title Company**" means Old Republic Title Company.

(kk) "**Title Report**" means the preliminary title report for the Property prepared by the Title Company, as they may be updated from time to time.

(ll) "**Transfer**" has the meaning set forth in Section 6.2.

ARTICLE II
REPRESENTATIONS; EFFECTIVE DATE AND TERM

2.1 Developer's Representations. Developer represents and warrants to City as

follows, and Developer covenants that until the expiration or earlier termination of this Agreement, 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, Developer shall immediately give written notice of such fact or condition to City. Developer acknowledges that City shall rely upon Developer's representations made herein notwithstanding any investigation made by or on behalf of City.

(i) Authority. Developer is a limited partnership duly formed and in good standing under the laws of the State of California. Developer has the full right, power and authority to undertake all obligations of Developer as provided herein, and Developer's execution, performance and delivery of this Agreement and the City Documents have been duly authorized by all requisite actions.

(ii) No Conflict. Developer'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 Developer is a party or by which it is bound.

(iii) No Litigation or Other Proceeding. No litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened which would prevent, hinder or delay the ability of Developer to perform its obligations under this Agreement.

(iv) No Developer Bankruptcy. Developer is not the subject of a bankruptcy or insolvency proceeding.

2.2 City Representations. City represents and warrants to Developer as follows, and City covenants that until the expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.2 not to be true, City shall immediately give written notice of such fact or condition to Developer. City acknowledges that Developer shall rely upon City's representations made herein notwithstanding any investigation made by or on behalf of Developer.

(i) Authority. City is a municipal corporation duly organized and in good standing under the laws of the State of California. City has the full right, power and authority to undertake all of the respective obligations as provided herein, and the execution, performance and delivery of this Agreement by City has been duly authorized by all requisite actions on the part of the City.

(ii) No Conflict. City's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under anycontract, agreement or order to which City is a party or by which it is bound.

(iii) No Litigation or Other Proceeding. 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.

(iv) No Bankruptcy. City is not the subject of a bankruptcy or insolvency proceeding.

2.3 Effective Date. The representations and warranties of Developer and City hereunder shall beeffective as of the Effective Date.

ARTICLE III
DEVELOPMENT OF THE PROJECT

3.1 The Property. Developer shall acquire fee simple title to the Property from the Master Developer upon or prior to the date set forth in the Schedule of Performance.

3.2 Scope of Development. Developer shall construct and develop the Development on the Property substantially in accordance with the terms and conditions of this Agreement, the Scope of Development attached hereto as Exhibit F (subject to the last sentence of this Section 3.2), and in compliance with the terms and conditions of all approvals, entitlements and permits that the City or any other governmental body or agency with jurisdiction over the Development or the Property has granted or issued as of the date hereof or may hereafter grant or issue in connection with development of the Development, including without limitation, all mitigation measures imposed in connection with environmental review of the Property and the Development and all conditions of approval imposed in connection with any entitlements, approvals or permits (all of the foregoing approvals, entitlements, permits, mitigation measures and conditions of approval are hereafter collectively referred to as the "**Conditions of Approval**"). Notwithstanding the foregoing, City acknowledges that the Development is currently in the conceptual design phase and that aspects of the Scope of Development may need to be changed, and therefore agrees to reasonably discuss such proposed changes to the Scope of Development with Developer in good faith, and shall not unreasonably withhold consent to such proposed changes to the Scope of Development.

3.3 Development Approvals. Developer acknowledges and agrees that execution of this Agreement by City does not constitute approval for the purpose of the issuance of building permits for the construction of the Development, does not limit in any manner the discretion of City in such approval process, and does not relieve Developer from the obligation to obtain all necessary entitlements, approvals, and permits for the construction of the Development, including without limitation, the approval of architectural plans, and the completion of any required environmental review of the Development pursuant to CEQA.

Developer covenants that it shall: (i) obtain all necessary permits and approvals which may be required by City and any other governmental agency having jurisdiction over the construction of the Development or the development of the Property, (ii) comply with all Conditions of Approval, (iii) comply with all mitigation measures, if any, imposed in connection with any environmental review of the Property or the Development, and (iv) not commence construction of the Development prior to issuance of required permits.

3.4 Fees. Developer shall be solely responsible for, and shall promptly pay when due,all customary and usual fees and charges of City in connection with obtaining building permits and other approvals for the Development, including without limitation, those related to the processing and consideration of amendments, if any, to the current entitlements, any related approvals and permits, environmental review, architectural review, historic review, and any

subsequent approvals for the Development or the development of the Property.

3.5 Schedule of Performance. Developer shall commence and complete construction of the Development and shall satisfy all other obligations of Developer under this Agreement within the time periods set forth herein and in the Schedule of Performance attached hereto as Exhibit E, as such time periods may be extended upon the mutual written consent of the Parties. Developer's failure to commence or complete construction of the Development in accordance with the foregoing schedule as such may be amended by the written consent of the Parties shall constitute a default hereunder. The Developer shall provide quarterly progress reports to the City regarding the status of the construction of the Development. The Developer shall provide the reports and information required under this Section until the Development is fully leased up.

3.6 Cost of Acquisition and Construction. Except as expressly set forth herein, Developer shall be solely responsible for all direct and indirect costs and expenses incurred in connection with the acquisition of the Property, the design, development and construction of the Development and compliance with the Conditions of Approval, including without limitation the installation and construction of all off-site or on-site improvements required by City in connection therewith, and none of such costs and expenses shall be the obligation of the City.

3.7 Rights of Access; Books and Records. For the purpose of ensuring that the Development is developed in compliance with this Agreement, Developer shall permit representatives of the City to enter upon the Property to inspect the Development following 48 hours' written notice (except in the case of emergency in which case such notice as may be practical under the circumstances shall be provided). Upon request, Developer shall permit the City to inspect at reasonable times and on a confidential basis those books, records and all other documents of Developer necessary to determine Developer's compliance with the terms of this Agreement.

3.8 City Disclaimer. Developer acknowledges that the City is under no obligation, and City neither undertakes or assumes any responsibility or duty to Developer or to any third party, to in any manner review, supervise, or inspect the progress of construction or the operation of the Development. Developer and all third parties shall rely entirely upon its or their own supervisionand inspection in determining the quality and suitability of the materials and work, the performance of architects, subcontractors, and material suppliers, and all other matters relating tothe construction and operation of the Development. Any review or inspection undertaken by the City is solely for the purpose of determining whether Developer is properly discharging its obligations under this Agreement, and shall not be relied upon by Developer or any third party as a warranty or representation by the City as to the quality of the design or construction of the Development and other improvements constructed on the Property (collectively, the **"Improvements**") or otherwise.

3.9 Construction Plans. Developer shall submit to City detailed construction plans for the Development (the "**Construction Plans**") for City's approval. As used herein "Construction Plans" means all construction documents upon which Developer and Developer's contractors shall rely in the construction of the Development and development of the Property and shall include, without limitation, final architectural drawings and materials specifications.

The Construction Plans shall be based upon the Scope of Development and upon the development approvals issued by the City for the Development, and shall not materially deviate therefrom without the express written consent of City. Such approval of the Construction Plans by the City shall not relieve Developer's obligation to obtain any and all approvals and permits required by the City or the City Building Division.

If rejected by the City in whole or in part, Developer shall submit new or corrected Construction Plans within forty-five (45) days after notification of the City's rejection and the reasons therefor. The City shall then have thirty (30) days to review and approve Developer's new or corrected Construction Plans. The provisions of this Section relating to time periods for approval, rejection, or resubmission of new or corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the City.

3.10 Construction Pursuant to Plans. Developer shall construct and develop the Development in accordance with the approved Construction Plans, the Conditions of Approval, and all other permits and approvals granted by the City pertaining to development of the Development. Developer shall comply with all directions, rules and regulations of any fire marshal, health officer, building inspector or other officer of every governmental agency having jurisdiction over the Property or the Development. Each element of the work shall proceed only after procurement of each permit, license or other authorization that may be required for such element by any governmental agency having jurisdiction. All design and construction work on the Development shall be performed by licensed contractors, engineers or architects, as applicable.

3.11 Change in Construction Plans. If Developer desires to make any material change in the approved Construction Plans, Developer shall submit the proposed change in writing to theCity for its written approval, which approval shall not be unreasonably withheld or delayed if theConstruction Plans, as modified by any proposed change, conform to the requirements of this Agreement and any approvals issued by City after the Effective Date. The Parties shall meet in good faith to discuss the changes if the City proposes to reject the changes. Any change in the Construction Plans required in order to comply with applicable codes shall be deemed approved, so long as such change does not substantially nor materially change the design, function, use, or amenities of the Development as shown on the latest approved Construction Plans. For purposes of this section, a “material change” means a change order that would result in a change of costs of a single item of work of Fifty Thousand Dollars ($50,000) or any set of changes in the work the costs of which cumulatively exceeds One Hundred Thousand Dollars ($100,000) or more.

3.12 Defects in Plans. City shall not be responsible to Developer or to any third partyfor any defect in the Construction Plans or for any structural or other defect in any work done pursuant to the Construction Plans. Developer shall indemnify, defend (with counsel approved by City, such approval not to be unreasonably withheld) and hold harmless the Indemnitees from and against all Claims arising out of, or relating to, or alleged to arise from or relate to defects in the Construction Plans or defects in any work done pursuant to the Construction Plans whether or not any insurance policies shall have been determined to be applicable to any such Claims. Developer’s indemnification obligations set forth in this Section shall survive the expiration or earlier termination of this Agreement and the recordation of a Certificate of Completion. It is further agreed that City does not,

and shall not, waive any rights against Developer which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Developer's deposit with City of any of the insurance policies described in this Agreement. Developer's indemnification obligations pursuant to this Section shall not extend to Claims arising due to the gross negligence or willful misconduct of the Indemnitees.

3.13 Certificate of Completion for Development. Promptly after completion of construction of the Development, issuance of a final Certificate of Occupancy (or other applicable final City Building Department approval) by the City, and the written request of Developer, the City will provide an instrument ("**Certificate of Completion"**) so certifying. The Certificate of Completion shall be conclusive evidence that Developer has satisfied its obligations regarding the construction and development of the Development on the Property.

The Certificate of Completion shall be issued substantially in the form attached hereto as Exhibit H, and at Developer's option, shall be recorded in the official records of Alameda County. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a deed of trust or mortgage securing money loaned to finance the Development or any part thereof and shall not be deemed a notice of completion under the California Civil Code, nor shall such Certificate provide evidence that Developer has satisfied any obligation that survives the expiration of this Agreement, including without limitation, Developer's obligations pursuant to the City Regulatory Agreement.

3.14 Equal Opportunity. During the construction of the Development, there shall be no discrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, intellectual or developmental disability, reproductive health decision making, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of any person in the hiring, firing, promoting or demoting of any person engaged in construction of the Development, and Developer shall direct its contractors and subcontractors to refrain from discrimination on such basis.

3.15 Prevailing Wage Requirements. If and to the extent required by state and federal prevailing wage laws, Developer and its contractors and agents shall pay prevailing wages for all construction, alteration, demolition, installation, and repair work performed with respect to the construction of the Development as required herein and described in the Scope of Development, in compliance with Labor Code Section 1720, et seq., and its implementing regulations, and perform all other obligations including the employment of apprentices in compliance with Labor Code Section 1770, et seq., keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and fulfilling all duties under the Civil Code or any other provision of law pertaining to providing, obtaining and maintaining all bonds to secure the payment of wages to workers required to be paid prevailing wages, all as may be amended from time to time (the "**Prevailing Wage Law**"). City does not make any representations to Developer as to the applicability of the Prevailing Wage Law to the construction of the Development, and Developer agrees and acknowledges that it is not relying on any representations of City in making its determination as to the applicability of the Prevailing Wage Law. It is agreed by the Parties that, in connection with the construction of the Development, as between City and Developer,

Developer shall be solely responsible for determining whether the Prevailing Wage Law is applicable to the construction of the Development, and Developer shall bear all risks of payment or non-payment of prevailing wages under the Prevailing Wage Law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. The Developer shall periodically, upon request of the City, certify to the City that, to its knowledge, it is in compliance with the requirements of this paragraph.

Developer shall indemnify, defend (with counsel approved by City, such approval not to be unreasonably withheld) and hold the City, and its respective elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the **"Indemnitees"**), harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages or the requirement of competitive bidding in the construction of the Development, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Developer related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that City does not and shall not waive any rights against Developer which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Developer's deposit with City of any of the insurance policies described in this Agreement. The provisions of this Section 3.15 shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Development. Developer's indemnification obligations under this Section 3.15 shall not apply to any Claim which arises as a result of an Indemnitee's gross negligence or willful misconduct.

3.16 Compliance with Laws. Developer shall carry out and shall cause its contractors to carry out the construction of the Development in conformity with all applicable federal, state and local laws, rules, ordinances and regulations, including without limitation, all applicable federal and state labor laws and standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq*., Government Code Section 4450, *et seq*., Government Code Section 11135, *et seq*., and the Unruh Civil Rights Act, Civil Code Section 51, *et seq*.

3.17 Liens and Stop Notices. Until the expiration of the term of the City Regulatory Agreement and full repayment of the City Loan, Developer shall not allow to be placed on the

Property or any part thereof any lien or stop notice on account of materials supplied to or labor performed on behalf of Developer. If a claim of a lien or stop notice is given or recorded affecting the Development, Developer shall within thirty (30) days of such recording or service: (a) pay and discharge (or cause to be paid and discharged) the same; or (b) effect the release thereof by recording and delivering (or causing to be recorded and delivered) to the party entitled thereto a surety bond in sufficient form and amount or provide other assurance satisfactory to City that the claim of lien or stop notice will be paid or discharged.

3.18 Right of City to Satisfy Liens on the Property. If Developer fails to satisfy or discharge any lien or stop notice on the Property pursuant to Section 3.17 above, the City shall have the right, but not the obligation, to satisfy any such liens or stop notices at Developer's expense and without further notice to Developer. In such event Developer shall be liable for and shall immediately reimburse City for such paid lien or stop notice. Alternatively, the City may require Developer to immediately deposit with City the amount necessary to satisfy such lien or claim pending resolution thereof. The City may use such deposit to satisfy any claim or lien that is adversely determined against Developer. Developer shall file a valid notice of cessation or notice of completion upon cessation of construction of the Development for a continuous period of thirty (30) days or more, and shall take all other reasonable steps to forestall the assertion of claims or liens against the Property or the Development. The City may (but has no obligation to) record any notices of completion or cessation of labor, or any other notice that the City deems necessary or desirable to protect its interest in the Property and the Development.

ARTICLE IV
CITY FINANCIAL ASSISTANCE

4.1 City Loan. The City shall provide a loan in the amount of Five Million Dollars ($5,000,000) (the "**City Loan**") to Developer upon the terms and conditions and for the purposes set forth in this Agreement. The City Loan shall be evidenced by a promissory note (the "**City Promissory Note**") substantially in the form attached hereto as Exhibit C. Concurrently with Developer's acquisition of the Property, the City Loan shall be secured by a deed of trust (the "**City Deed of Trust**") executed by Developer as Trustor substantially in the form attached hereto as Exhibit D and recorded against the Property, and subordinate only to such liens as City shall approve in writing. The outstanding principal balance of the Note will accrue simple interest at the rate of three percent (3%) per annum.

Provided that Developer has complied with all conditions precedent to disbursement of the City Loan set forth in Sections 4.6 and 4.7, the proceeds of the City Loan ("**City Loan Proceeds"**) shall be disbursed in accordance with Section 4.2 hereof. The Parties agree that City shall disburse City Loan Proceeds only for the purposes set forth in Section 4.2.

4.2 Use and Disbursement of Proceeds. Two Million Dollars ($2,000,000) of the City Loan Proceeds shall be used to fund predevelopment costs of the Development, in accordance with the Loan Budget included in the Preliminary Financing Plan (the "**Predevelopment Component**"). The remaining Three Million Dollars ($3,000,000) of the City Loan Proceeds shall be used to fund construction and development costs of the Development, in accordance with the Loan Budget included in the Preliminary Financing Plan (the "**Construction**

Component"). City Loan Proceeds shall not be used or disbursed for developer fee, overhead or profit.

4.3 Security. As security for repayment of the City Promissory Note, Developer shall execute the City Deed of Trust, pursuant to which City shall be provided a lien against the Property and the Improvements. The City Deed of Trust shall be recorded in the Official Records concurrently with Developer's acquisition of the Property prior to disbursement of the Construction Component (for purposes of clarity, the City Deed of Trust will not be recorded prior to the disbursement of the Predevelopment Component). The City Deed of Trust may be subordinated to such construction and permanent financing which are designated as senior loans in the Revised Financing Plan approved by the City, pursuant to any subordination agreements agreed upon by the City and senior lenders, as applicable.

4.4 Title Policy. The Title Company shall issue a lender's policy of title insurance naming City as the insured, in a policy amount not less than the principal amount of the City Loan, showing Developer as holding fee title to the Property and insuring the City Deed of Trust to be a valid lien on the Property subject only to exceptions approved by City (the "**City Title Policy**"), together with such endorsements as are required by the City.

4.5 Financing Plan. As set forth in the attached Exhibit B, Developer has provided City with a preliminary financing plan for the Development (**"Preliminary Financing Plan")** which describes (i) the estimated costs of development, including predevelopment costs, acquisition costs, and hard and soft construction costs, (ii) an operating pro forma which describes projected revenue and expenses for the Development, and (iii) identification of sources of acquisition, predevelopment, construction and permanent financing. The Parties acknowledge that certain proposed forms of funding in the Preliminary Financing Plan are available through competitive funding programs, and that the Development may not be successful in actually obtaining one or more of such forms of financing. The Developer shall submit timely and complete applications for each of the forms of financing which are included in the Preliminary Financing Plan, in a manner that maximizes the competitiveness thereof. In the event any of Developer's applications therefor are disapproved, Developer shall continue to submit such applications in each subsequent application round until successful. The Parties anticipate that the types and amounts of financing for the Development will change and be refined during the period between the Effective Date and the Construction Loan Closing. Accordingly, following the disbursement of the City Loan Proceeds, Developer shall submit semi-annual updated and revised financing plans (each, a "**Revised Financing Plan**") which shall include a revised development budget, updated amounts for each of the foregoing funding sources and any other funding sources obtained, and copies of written commitments received for each funding source. Developer shall submit the first Revised Financing Plan no more than three (3) months following the date on which the City Loan Proceeds are disbursed and shall continue to provide the City a Revised Financing Plan on a semi-annual basis thereafter until the Construction Loan Closing. The City shall promptly review and shall provide Developer written approval or disapproval of each Revised Financing Plan in writing within thirty (30) days, provided that the Revised Financing Plan under review conforms to the terms of this Agreement. The City's review of each Revised Financing Plan shall be limited to (i) determining if the financing contemplated therein will be reasonably available and will provide sufficient funds to undertake and complete construction of the Development, and (ii) determining if the updates to the Revised Financing

Plan then under review are consistent with the terms of this Agreement. If the City disapproves an update to the Revised Financing Plan, the City shall specify in writing the reasons for the disapproval within thirty (30) days of receipt. Within thirty (30) days of receiving the City's written notification of disapproval, the Developer shall thereafter resubmit a further amended Revised Financing Plan to the City for review. The City shall either approve or disapprove the resubmitted Revised Financing Plan from Developer within thirty (30) days of receiving the resubmission. If the City approves of the resubmitted Revised Financing Plan, Developer will resume quarterly submission of Revised Financing Plans with the subsequent Revised Financing Plan to be submitted not less than three (3) months after receiving the City's approval of the prior Revised Financing Plan. In the event the City disapproves the resubmitted Revised Financing Plan, the City and the Developer agree to negotiate in good faith to develop a submission that is reasonably acceptable to both the City and the Developer within a reasonable period of time.

4.6 Conditions to Disbursement of Predevelopment Component of City Loan. City's obligation to fund the Predevelopment Component of the City Loan for the purposes of Section 4.2 above is conditioned upon the satisfaction of all of the following conditions:

(a) Developer's delivery to City of each of the following: (i) certificate of good standing, certified by the Secretary of State indicating that Developer is properly organized, in good standing, and authorized to do business in the State of California, and (ii) a certified resolution indicating that Developer has authorized to consummate this transaction and that the persons executing this Agreement and the City Documents on Developer's behalf have been duly authorized to do so.

(b) Developer's delivery to the City of evidence of insurance coverage pertaining to commercial general liability (but not builder's risk or other insurance associated with the construction of the Development) in accordance with the requirements set forth in Section 10.2.

(c) Developer's delivery of the City Promissory Note and Assignment of Architectural and Engineering Plans, in the form attached hereto as Exhibit I, fully executed by Developer.

(d) There exists no Event of Developer Default nor any act, failure, omission or condition that would constitute an Event of Developer Default under this Agreement.

(e) The City's receipt of a written requisition for disbursement of funds from Developer specifying the amount and use of the requested funds.

(f) The proposed use of the funds is in accordance with the City Loan Budget in the Preliminary Financing Plan.

4.7 Conditions to Disbursement of Construction Component of City Loan. City's obligation to fund the Construction Component of the City Loan for the purposes of Section 4.2 above is conditioned upon the satisfaction of all of the following conditions:

(a) Developer has acquired fee title to the Property or will acquire fee title concurrently with the disbursement of the City Loan proceeds.

(b) All construction financing and governmental assistance for the Development as set forth in the Revised Financing Plan has closed or is closing concurrently with the disbursement of the City Loan proceeds, and the Investors have committed to equity contributions to the Development in accordance with the Revised Financing Plan.

(c) The City has approved the Construction Plans, and all land use entitlements and governmental permits and approvals necessary for the construction of the Development have been obtained.

(d) Developer's delivery to the City of evidence of all insurance coverage in accordance with the requirements set forth in Section 10.2.

(e) Developer's delivery of the City Deed of Trust and City Regulatory Agreement, each fully executed and acknowledged as applicable.

(f) Recordation of the City Regulatory Agreement and the City Deed of Trust in the Official Records simultaneously with the disbursement of the first City Loan Proceeds for the Construction Component.

(g) The Title Company's issuance of the City Title Policy, together with such endorsements as are required by the City, in accordance with Section 4.4 hereof.

(h) There exists no Event of Developer Default nor any act, failure, omission or condition that would constitute an Event of Developer Default under this Agreement.

(i) The City's receipt of a written requisition for disbursement of funds from Developer specifying the amount and use of the requested funds.

(j) The proposed use of the funds is in accordance with the City Loan Budget in the Preliminary Financing Plan.

4.8 Repayment of the City Loan.

(a) Annual Payments. Upon and after the completion of the Development, the Developer shall make annual payments of principal and interest to the City in the amount of the City Prorata Percentage of fifty percent (50%) of the Residual Receipts. Such annual payments shall be due and payable in arrears no later than May 1 of each year with respect to the previous calendar year, commencing on May 1st of the first year after the City's issuance of a certificate of occupancy for the Development. The Developer shall provide the City with any documentation reasonably requested by the City to substantiate the Developer's determination of Residual Receipts. Repayments shall be credited first to interest, then to principal.

(b) Sharing of Residual Receipts with Other Lenders. The City acknowledges that other governmental lenders, such as the California Department of Housing and Community Development ("**HCD**"), the County of Alameda ("**County**"), and/or other lenders to be set forth in the Financing Plan, may provide additional financing for the Development. The City agrees to share pro rata in the Residual Receipts, in proportion to the amount of City Loan and the financing provided by such other lenders (the "**City Prorata Percentage**").

(c) Payment of Remaining Balance. Developer shall pay all outstanding principal and accrued interest on the City Loan, in full, on the earliest to occur of (i) a Developer Event of Default for which the City exercises its right to cause the City Loan indebtedness to become immediately due and payable, and (ii) the expiration of the Term.

4.9 Prepayment; Acceleration

(a) Prepayment. Developer shall have the right to prepay the City Loan at any time and from time to time, without penalty or premium. Prepayments shall be applied first to accrued but unpaid interest and then to principal. Any such prepayment shall have no effect upon Developer's obligations under the City Regulatory Agreement which shall survive for the full term of the City Regulatory Agreement.

(b) Due On Sale or Encumbrance. Unless City agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the City Promissory Note shall be due and payable upon a Transfer (as defined in Section 6.2) absent the prior written consent of City of all or any part of or interest in the Property, except for a Transfer permitted under Section 6.3 of this Agreement or as otherwise permitted pursuant to this Agreement.

4.10 Nonrecourse. Except as expressly provided in this Section 4.10, Developer and the general and limited partners of the Developer shall have no personal liability for payment of the principal of, or interest on the City Promissory Note, and the sole recourse of City with respect to the payment of the principal of, and interest on the City Promissory Note shall be to the Property and the Improvements and any other collateral held by City as security for the City Promissory Note; provided however, nothing contained in the foregoing limitation of liability shall: (i) limit or impair the enforcement against all such security for the City Promissory Note of all the rights and remedies of the City thereunder; (ii) be deemed in any way to impair the right of the City to assert the unpaid principal amount of the City Promissory Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto; or (iii) be deemed in any way to limit the rights of the City to obtain specific performance by the Developer of its covenants under the City Documents, other than the covenants to pay the City principal and interest due under the City Promissory Note.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the City Promissory Note; nothing contained herein is intended to relieve the Developer of its obligation to indemnify the City under this Agreement, or liability to the extent of any loss for: (i) fraud or intentional misrepresentation, or bad faith, waste, willful misrepresentation by the Developer; (ii) the failure

to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the City Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Developer other than in accordance with the City Deed of Trust; and/or the misappropriation of any proceeds by the Developer under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Development.

ARTICLE V
USE OF THE PROPERTY

5.1. Use; Affordable Housing. Developer covenants and agrees for itself and its successors and assigns that the Property shall be used for the development and operation of the Development in accordance with the terms and conditions of this Agreement and the City Regulatory Agreement.

5.2. Affordable Housing. Developer covenants and agrees for itself, its successors and assigns that fifty-nine (59) of the sixty (60) residential units developed within the Development shall be occupied by and rented at an affordable rent to Extremely Low Income Households and Low Income Households (as defined in the Regulatory Agreement) in accordance with the terms hereof and the City Regulatory Agreement. In the event that Developer is unable to obtain financing for the Development that would qualify it for an exemption from Article 34 of the California Constitution (e.g., low income housing tax credits), then only twenty-nine (29) of the sixty (60) units will be restricted to occupancy by and rented at an affordable rent to households of Extremely Low Income and Lower Income and the Regulatory Agreement will be so amended. The Parties shall execute the City Regulatory Agreement, substantially in the form attached hereto as Exhibit G, concurrently with the closing of the construction financing for the Development. The City Regulatory Agreement shall be recorded in the Official Records of Alameda County ("**Official Records**") concurrently with the recording of the City Deed of Trust. Upon request of Developer, City shall reasonably consider changes to or subordination of the Regulatory Agreement as proposed by the lender and/or Investor.

5.3. Maintenance. Developer shall at its own expense, maintain the Property, the Improvements and related landscaping and common areas in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations, consistent with the standards of maintenance of similar multifamily apartment complexes in Alameda County. Without limiting the foregoing, Developer agrees to maintain the Improvements and the Property (including without limitation, the residential units, common areas, landscaping, driveways, parking areas and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Development. Developer shall prevent and/or rectify any physical deterioration of the Property and the Improvements and shall make all repairs, renewals and replacements necessary to keep the Property and the Improvements in good condition and repair. Developer shall provide adequate security services for occupants of the Development.

5.4. Taxes and Assessments. Developer shall pay all real and personal property taxes,assessments and charges and all franchise, income, payroll, withholding, sales, and other taxes assessed against the Property and payable by Developer, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that Developer shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Developer exercises its right to contest any tax, assessment, or charge, the Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest. Developer shall have the right to apply for all applicable tax exemptions, including, without limitation, the welfare exemption from property tax for low-income housing.

5.5. Obligation to Refrain from Discrimination. Developer shall not restrict the rental,sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development, or any portion thereof, on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of any person. Developer covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition 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 Development or part thereof, nor shall Developer or any person claiming under or through Developer 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, subtenants, sublessees or vendees in, of, or for the Development or part thereof. Developer shall include such provision in all deeds, leases, contracts and other instruments executed by Developer, and shall enforce the same diligently and in good faith.

ARTICLE VI
[Intentionally Omitted]

ARTICLE VII
LIMITATIONS ON CHANGE IN OWNERSHIP, MANAGEMENTAND CONTROL OF DEVELOPER

7.1 Prohibition of Transfer. Prior to the later of expiration of the term of the City Regulatory Agreement and the payment in full of the City Promissory Note, Developer shall not, except as expressly permitted by this Agreement, directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, "**Transfer**") of the whole or any part of the Property, the Development, the Improvements, or this Agreement or any of the City Documents, without the prior written approval of City, which approval shall not be unreasonably withheld. Any such attempt to assign this Agreement without the City's consent shall be null and void and shall confer no rights or

privileges upon the purported assignee. In addition to the foregoing, prior to the later of expiration of the term of the City Regulatory Agreement and the payment in full of the City Promissory Note, except as expressly permitted by this Agreement, Developer shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a "significant change of ownership" shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and/or control of Developer, taking all transfers into account on a cumulative basis.

(i) Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions set forth in this Article VI shall not be deemed to prevent: (i) the granting of utility easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to this Agreement; (iii) the lease of individual units to tenants for occupancy as their principal residence in accordance with the City Regulatory Agreement; (iv) assignments creating security interests for the purpose of financing the acquisition, construction or permanent financing of the Development or the Property in accordance with the approved Financing Plan and subject to the requirements of Article VII, or (v) Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest (vi) the removal and replacement of the limited partner of the Partnership by the Investor pursuant to the Partnership Agreement, or (vii) the Investor's transfer, sale or assignment of its limited partner interest pursuant to the Partnership Agreement

7.2 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property or portion thereof if all of the following requirements are met (provided however, the requirements of this Section 6.3 shall not apply to Transfers described in Section 7.2):

(i) The proposed transferee demonstrates to the City's satisfaction that it hasthe qualifications, experience and financial resources necessary and adequate as may be reasonably determined by the City to competently complete construction and operation of the Development and to otherwise fulfill the obligations undertaken by the Developer under this Agreement.

(ii) The Developer and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of this Agreement, the Property or interest therein together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Developer under this Agreement, the City Regulatory Agreement, the City Documents and all obligations of Developer arising prior to the effective date of the Transfer (unless Developer expressly remains responsible for such obligations) and shall agree to be subject to and assume all of Developer's obligations pursuant to the Conditions of Approval and all other conditions, and restrictions set forth in this Agreement and the City Regulatory Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the City Manager unless the City

Manager, in his or her discretion, refers the matter of approval to the City Council. If the City rejects a proposed Transfer, the City, as applicable, shall provide the reasons for such rejection in writing within thirty (30) days following receipt of written request by Developer, and representatives of the City shall meet with Developer and the proposed transferee to discuss in good faith the reasons for the rejection and Developer's and transferee's responses thereto.

7.3 Effect of Transfer without City Consent.

(a) In the absence of specific written agreement by the City, no Transfer by Developer shall be deemed to relieve the Developer or any other party from any obligation under this Agreement or the City Regulatory Agreement.

(b) Without limiting any other remedy City may have under this Agreement,or under law or equity, this Agreement may be terminated by City if without the prior written approval of the City, Developer assigns or Transfers this Agreement or the Property. This Section 6.4.2 shall not apply to Transfers permitted under Section 7.2.

7.4 Recovery of City Costs. Developer shall reimburse City for all costs, including but not limited to attorneys' fees, incurred in reviewing instruments and other legal documents proposed to affect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten days following City's delivery to Developer of an invoice detailing such costs. This Section 6.5 shall not apply to Transfers permitted under Section 7.2.

ARTICLE VIII
SECURITY FINANCING AND RIGHTS OF MORTGAGEES

8.1 Mortgages and Deeds of Trust for Development. Mortgages and deeds of trust, orany other reasonable security instrument are permitted to be placed upon the Property only for the purpose of securing loans approved pursuant to the approved Financing Plan for the purpose of financing the acquisition of the Property, the design and construction of the Improvements, other expenditures reasonably necessary for development of the Property pursuant to this Agreement, and the construction and/or refinancing of the Development. Developer shall not enter into any conveyance for such financing without the prior written approval of the City Manager or his or her designee. As used herein, the terms "mortgage" and "deed of trust" shall mean any security instrument used in financing real estate acquisition, construction and land development.

8.2 Holder Not Obligated to Construct. The holder of any mortgage or deed of trust authorized by this Agreement shall not be obligated to construct or complete the Improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to permit or authorize any such holder to devote the Property or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

8.3 Notice of Default and Right to Cure. Whenever City delivers any notice of default hereunder, City shall concurrently deliver a copy of such notice to each holder of record of any mortgage or deed of trust secured by the Property, and the Investor Limited Partner,

provided that City has been provided with the address for delivery of such notice. City shall have no liability to any such holder for any failure by the City to provide such notice to such holder. Each such holder shall have the right, but not the obligation, at its option, to cure or remedy any such default or breach, and City will accept tender of such cure as if delivered by the Developer.

8.4 City Right to Cure Defaults. In the event of a breach or default by Developer under a mortgage or deed of trust secured by the Property, City may (but has no obligation to) cure the default, without acceleration of the subject loan, following prior notice thereof to the holder of such instrument and Developer. In such event, Developer shall be liable for, and City shall be entitled to reimbursement from Developer, for all costs and expenses incurred by City associated with and attributable to the curing of the default or breach and such sum shall constitute a part of the indebtedness secured by the City Deed of Trust.

8.5 Holder to be Notified. Developer, for itself, its successors and assigns, hereby warrants and agrees that each term contained herein dealing with security financing and rights of holders shall be either inserted into the relevant deed of trust or mortgage or acknowledged by the holder prior to its creating any security right or interest in the Property.

8.6 Modifications to Agreement. City shall not unreasonably withhold its consent to modifications of this Agreement requested by Development lenders or investors, provided such modifications do not alter City's substantive rights and obligations under this Agreement.

8.7 Estoppel Certificates. Any Party shall, at any time, and from time to time, withinthirty (30) days after receipt of written request from the other Party, execute and deliver to such Party a written statement certifying that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties (if such be the case), (ii) this Agreement has not been amended or modified, or if so amended, identifying the amendments, and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing the nature of any such defaults.

ARTICLE IX ENVIRONMENTAL MATTERS

9.1 No City Liability; Developer's Covenants. City shall not be responsible for the cost of any soil, groundwater or other environmental remediation or other response activities for any Hazardous Materials, if any, existing or occurring on the Property or any portion thereof, and Developer shall be solely responsible for all actions and costs associated with any such activities required by any regulatory agency with jurisdiction over the Property and/or required for the construction of the Development and the development of the Property, or any portion thereof. Upon receipt of any notice regarding the presence, release or discharge of Hazardous Materials in, on or under the Property, or any portion thereof, Developer agrees to timely initiate and diligently pursue and complete all appropriate response, remediation and removal actions for the presence, release or discharge of such Hazardous Materials within such deadlines as specified by applicable Environmental Laws. Developer hereby covenants and agrees that:

(1) Developer shall not knowingly permit the Development or the Property or any portion of either to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the

presence or release of Hazardous Materials in, on, under, about or from the Development or the Property with the exception of any previously disclosed existing conditions on the Property and cleaning supplies and other materials customarily used in construction, construction, use or maintenance of residential property and used, stored and disposed ofin compliance with Environmental Laws, and

(2) Developer shall keep and maintain the Development and the Property and each portion thereof in compliance with, and shall not cause or permit the Development or the Property or any portion of either to be in violation of, any Environmental Laws.

9.2 Environmental Indemnification. Developer shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against any and all Claims, including without limitation any expenses associated with the investigation, assessment, monitoring, response, removal, treatment, abatement or remediation of Hazardous Materials and administrative, enforcement or judicial proceedings resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, storage or disposal or the alleged presence, release, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Property, or (ii) the failure of Developer, Developer's employees, agents, contractors, subcontractors, or any person acting on behalf of any of the foregoing to comply with Environmental Laws or the covenants set forth in Section 9.1. The foregoing indemnity shall further apply to any residual contamination in, on, under or about the Property or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Environmental Laws. The provisions of this Section 9.2 shall survive the issuance of a Certificate of Completion for the Development and the expiration or earlier termination of this Agreement. Developer's indemnification obligation under this Section 9.2 shall not apply to acts described in clause (i) above caused by the gross negligence or willful misconduct of an Indemnitee.

9.2.1 No Limitation. Developer hereby acknowledges and agrees that Developer's duties, obligations and liabilities under this Agreement, including, without limitation, under Section 9.2 above, are in no way limited or otherwise affected by any information the City may have concerning the Property and/or the presence in, on, under or about the Property of any Hazardous Materials, whether the City obtained such information from the Developer or from its own investigations. It is further agreed that City does not and shall not waive any rights against Developer that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

9.3 Hazardous Materials. As used herein, the term **"Hazardous Materials"** means any substance, material or waste which is or becomes regulated by any federal, state or local governmental authority, and includes without limitation (i) petroleum or oil or gas or any direct or indirect product or by-product thereof; (ii) asbestos and any material containing asbestos; (iii) any substance, material or waste regulated by or listed (directly or by reference) as a "hazardous

substance", "hazardous material", "hazardous waste", "toxic waste", "toxic pollutant", "toxic substance", "solid waste" or "pollutant or contaminant" in or pursuant to, or similarly identified as hazardous to human health or the environment in or pursuant to, the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as they now exist or are hereafter amended, together with any regulations promulgated thereunder; (iv) any substance, material or waste which is defined as such or regulated by any "Superfund" or "Superlien" law, or any Environmental Law; or (v) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic and regulated under any other federal, state or local environmental law, including without limitation, asbestos, polychlorinated biphenyls, petroleum, natural gas and synthetic fuel products and by-products.

9.4 Environmental Laws. As used herein, the term "**Environmental Laws**" means all federal, state or local statutes, ordinances, rules, regulations, orders, decrees, judgments or common law doctrines, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to, or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to Hazardous Materials (as defined above) or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; (iv) the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal; or (iv) the use, release or disposal of toxic or hazardous substances or Hazardous Materials or the remediation of air, surface waters, groundwater or soil, as now or may at any later time be in effect, including but not limited to the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as each of the foregoing now exist or are hereafter amended, together with any regulations promulgated

thereunder.

ARTICLE X
DEFAULTS, REMEDIES AND TERMINATION

10.1 Event of Developer Default. The following events shall constitute an event of default on the part of Developer ("**Event of Developer Default**"):

(a) Subject to force majeure, Developer fails to commence or complete construction of the Development within the times set forth in Section 3.5, or abandons or suspends construction of the Development prior to completion for a period of sixty (60) days or more;

(b) Developer fails to pay when due the principal and interest (if any) payable under the City Promissory Note and such failure continues for thirty (30) days after City notifies Developer thereof in writing;

(c) A Transfer occurs, either voluntarily or involuntarily, in violation of Article VI;

(d) Developer fails to maintain insurance on the Property and the Development as required pursuant to this Agreement, and Developer fails to cure such default within ten (10) days following notice thereof from the City;

(e) Subject to Developer's right to contest the following charges pursuant to Section 5.4, if Developer fails to pay prior to delinquency taxes or assessments due on the Property or the Development or fails to pay when due any other charge that may result in a lien on the Property or the Development, and Developer fails to cure such default within thirty (30) days of date of delinquency, but in all events upon the imposition of any such tax or other lien;

(f) A default is declared in writing under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to acceleratere payment of such loan;

(g) Any representation or warranty contained in this Agreement or in any financial statement, certificate or report submitted to the City in connection with this Agreement or Developer's request for the City Loan proves to have been false in any material and adverse respect when made and continues to be materially adverse to the City;

(h) If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("**Bankruptcy Law**"), Developer (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Developer in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official for Developer; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

(i) A court of competent jurisdiction shall have made or entered any decree or order:

(1) adjudging the Developer to be bankrupt or insolvent,

(2) approving as properly filed a petition seeking reorganization of the Developer or seeking any arrangement for Developer under bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction,

(3) appointing a receiver, trustee, liquidator, or assignee of the Developer in bankruptcy or insolvency or for any of its properties, or

(4) directing the winding up or liquidation of the Developer;

(j) Developer shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executedupon shall have been returned or released within sixty (60) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period shall apply under this subsection as well) or prior to any sooner sale pursuant to such sequestration, attachment, or execution;

(k) The Developer shall have voluntarily suspended its business or Developer shall have been dissolved or terminated;

(l) An event of default arises under this Agreement or any City Document and remains uncured beyond any applicable cure period; or

(m) Developer defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 10.1 and unless a shorter cure period is specified for such default, the default continues for ten (10) days in the event of a monetary default or thirty (30) days in the event of a nonmonetary default after the date upon which City shall have given written notice of the default to Developer; provided however, if the default is of a nature that it cannot be cured within thirty (30) days, a Developer Event of Default shall not arise hereunder if Developer commences to cure the default within thirty (30) days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than ninety (90) days after receipt of notice of the default or such longer period as the City may allow.

10.2 City Default. An event of default on the part of City ("**Event of City Default**") shall arise hereunder if City fails to keep, observe, or perform any of its covenants, duties, or obligations under this Agreement, and the default continues for a period of thirty (30) days after written notice thereof from Developer to City, or in the case of a default which cannot with due diligence be cured within thirty (30) days, City fails to commence to cure the default within thirty (30) days of such notice and thereafter fails to prosecute the curing of such default with due diligence and in good faith to completion.

10.3 City's Right to Terminate Agreement. If an Event of Developer Default shall occur and be continuing beyond any applicable cure period, then City shall, in addition to other rights available to it under law or this Agreement, have the right to terminate this Agreement. If City makes such election, City shall give written notice to Developer and to any mortgagee entitled to such notice specifying the nature of the default and stating that this Agreement shall expire and terminate on the date specified in such notice, and upon the date specified in the notice, this Agreement and all rights of Developer under this Agreement, shall expire and terminate.

10.4 City's Remedies and Rights Upon an Event of Developer Default. Upon the occurrence of an Event of Developer Default and the expiration of any applicable cure period, City shall have all remedies available to it under law or equity, including, but not limited to the following. City may, at its election, without notice to or demand upon Developer, except for notices or demands required by law or expressly required pursuant to this Agreement or the City Documents, exercise one or more of the following remedies:

(a) Accelerate and declare the balance of the City Promissory Note and interest accrued thereon immediately due and payable;

(b) Seek specific performance to enforce the terms of this Agreement or City Documents;

(c) Foreclose on the Property pursuant to the City Deed of Trust;

(d) Pursue any and all other remedies available under law to enforce the terms of this Agreement and the City Documents and City's rights thereunder.

10.5 Developer's Remedies Upon an Event of City Default. Upon the occurrence of a City Event of Default, in addition to pursuing any other remedy allowed at law or in equity or otherwise provided in this Agreement, Developer may bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking to obtain any other remedy consistent with the purpose of this Agreement.

10.6 Remedies Cumulative; No Consequential Damages. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different time, of any other rights or remedies for the same or any other default by the other Party. Notwithstanding anything to the contrary set forth herein, a party's right to recover damages in the event of a default shall be limited to actual damages and shall exclude consequential damages.

10.7 Inaction Not a Waiver of Default. No failure or delay by any Party in asserting any of its rights and remedies as to any default shall operate as a waiver of such default or of any such rights or remedies, nor deprive any Party of its rights to institute and maintain any action or proceeding which it may deem necessary to protect, assert or enforce any such rights or remedies

in the same or any subsequent default.

ARTICLE XI INDEMNITY AND INSURANCE.

11.1 Indemnity. Developer shall indemnify, defend (with counsel approved by City, such approval not to be unreasonably withheld) and hold Indemnitees harmless from and against any and all Claims, including without limitation, Claims arising directly or indirectly, in whole or in part, as a result of or in connectionwith Developer's or Developer's contractors, subcontractors, agents or employees development, construction, improvement, operation, ownership or maintenance of the Development or the Property, or any part thereof or otherwise arising out of or in connection with Developer's performance under this Agreement. Developer's indemnification obligations under this Section 11.1 shall not extend to Claims resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 11.1 shall survive the issuance of a Certificate of Completion for the Development and the expiration or earlier termination of this Agreement. It is further agreed that City do not and shall not waive any rights against Developer that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Developer, of any of the insurance policies described in this Agreement.

11.2 Insurance.

(a) Developer and all contractors working on behalf of Developer on the Development shall maintain the insurance coverage as described in the City Insurance Requirements attached hereto Exhibit J and incorporated herein.

(b) Prior to closing of the City Loan, Developer shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. Each certificate shall contain all provisions required in the City Insurance Requirements.

(c) If any insurance policy or coverage required hereunder is canceled or reduced, Developer shall, within fifteen (15) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Developer's expense,and Developer shall promptly reimburse City for such expense upon receipt of billing from City.

ARTICLE XII MISCELLANEOUS PROVISIONS

12.1 Brokers. Developer agrees to pay any real estate commission, brokerage fee, finder's fee, or other compensation due with respect to the acquisition of the Property, and agrees to defend, indemnify and hold harmless the City from any claims, expenses, costs or liabilities arising in connection with a breach of this warranty and representation. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

12.2 Enforced Delay; Extension of Times of Performance. Subject to the limitations set forth below, performance by any Party shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or omissions of the other Parties, acts or failures to act of any other public or governmental agency or entity (other than the acts or failures to act of City which shall not excuse performance by City), or any other cause beyond the affected Party's reasonable control. 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 Parties within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Parties within ten (10) days of receipt of the notice. None of theParties shall unreasonably withhold consent to an extension of time pursuant to this Section.

Times of performance under this Agreement may also be extended in writing by the mutual agreement of Developer and City (acting in the discretion of its City Manager unless he or she determines in his or her discretion to refer such matter to the City Council). City and Developer acknowledge that adverse changes in economic conditions, either of the affected Party specifically or the economy generally, changes in market conditions or demand, and/or inability to obtain financing to complete the work of Improvements shall not constitute grounds of enforced delay pursuant to this Section. Each Party expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

12.3 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on deliveryif delivery is confirmed by the delivery service;

City: City of Dublin
100 Civic Plaza

Dublin, CA 94568
Attention: City Manager
(with copy to City Attorney)

Developer: Sunflower Grace, L.P.
c/o Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA 94703
Attention: Chief Executive Officer

If the Developer is a limited partnership, City agrees that it shall provide Developer's Investor Limited Partner a duplicate copy of all notices of default that the City may give to or serve in writing upon Developer pursuant to the terms of the Loan Documents, at an address provided to the City; provided, the City shall have no liability to the Investor Limited Partner for its failure to do so. The Investor Limited Partner shall have the right, but not the obligation, to cure any Default of Developer set forth in such notice, during any applicable cure period described in the Loan Documents, and the City will accept tender of such cure as if delivered by Developer.

12.4 Attorneys' Fees. If any Party fails to perform any of its obligations under this Agreement, or if any dispute arises between the Parties concerning the meaning or interpretation of any provision hereof, then the prevailing party in any proceeding in connection with such dispute shall be entitled to the costs and expenses it incurs on account thereof and in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

12.5 Waivers; Modification. No waiver of any breach of any covenant or provision ofthis Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the waiving party. This Agreement may be amended or modified only by a written instrument executed by the Parties.

12.6 Binding on Successors. Subject to the restrictions on Transfers set forth in Article VI, this Agreement shall bind and inure to the benefit of the Parties and their respective permitted successors and assigns. Any reference in this Agreement to a specifically named party shall be deemed to apply to any permitted successor and assign of such party who has acquired an interest in compliance with this Agreement or under law.

12.7 Construction. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since all of the Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.

12.8 Action or Approval. Except as may be otherwise specifically provided in this

Agreement, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the City is required or permitted under this Agreement, such action may be given, made, or taken by the City Manager, or by any person who shall have been designated in writing by the City, without further approval by the City Council. Any such action shall be in writing. The Developer acknowledges that nothing in this Agreement (including any approval by the City Manager in accordance with this Agreement) shall limit, waive, or otherwise impair the authority and discretion of: (i) the City's Community Development Department, in connection with the review and approval of the proposed construction plans for the Development (or any change to such plans), or any use, or proposed use, of the Property, (ii) the City's issuance of a building permit, or (iii) any other office or department of the City acting in its capacity as a governmental regulatory authority with jurisdiction over the development, use, or operation of the Development.

12.9 Entire Agreement. This Agreement, including the exhibits listed below, which areattached hereto and incorporated herein by this reference, together with the other City Documents, contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties with respect to the subject matter hereof.

Exhibit A	Legal Description of the Property
Exhibit B	Preliminary Financing Plan
Exhibit C	City Promissory Note
Exhibit D	City Deed of Trust
Exhibit E	Schedule of Performance
Exhibit F	Scope of Development
Exhibit G	City Regulatory Agreement
Exhibit H	Certificate of Completion
Exhibit I	Assignment of Architectural and Engineering Plans
Exhibit J	City Insurance Requirements

12.10 Counterparts. This Agreement may be executed in one or more counterparts, eachof which shall be an original and all of which taken together shall constitute one instrument. Thesignature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Amendment may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

12.11 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

12.12 No Third Party Beneficiaries. Nothing contained in this Agreement is intended toor shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

12.13 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

12.14 Non-Liability of Officials, Employees and Agents. No officer, official, employeeor agent of City shall be personally liable to Developer or its successors in interest in the event ofany default or breach by City or for any amount which may become due to Developer or its successors in interest pursuant to this Agreement.

12.15 Time of the Essence; Calculation of Time Periods. Time is of the essence for each condition, term, obligation and provision of this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a business day, in which event the period shall run until the next business day. The final day of any such period shall be deemed to end at 5:00 p.m., local time at the Property. For purposes of this Agreement, a "business day" means a day that is not a Saturday, Sunday, a federal holiday or a state holiday under the laws of California.

12.16 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Alameda County, California or in the Federal District Court for the Northern District of California.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date first written above.

DEVELOPER:

SUNFLOWER GRACE, L.P.,
a California limited partnership

By: Sunflower Grace MGP LLC,
a California limited liability company,
its Managing General Partner

By: Satellite Affordable Housing Associates,
a California nonprofit public benefit corporation,
its member/manager

By: Signed by: Susan Friedland
383354C32FC6425...
Susan Friedland,
Chief Executive Officer

By: Sunflower Grace AGP LLC,
a California limited liability company,
its Administrative General Partner

By: Sunflower Hill,
a California nonprofit public benefit corporation,
its member/manager

By: Signed by: Janeen Rubino-Brumm
064FF6CBCD684CC...
Janeen Rubino-Brumm
President – Board of Directors

CITY:

CITY OF DUBLIN,
a California municipal corporation

_____
Colleen Tribby, City Manager

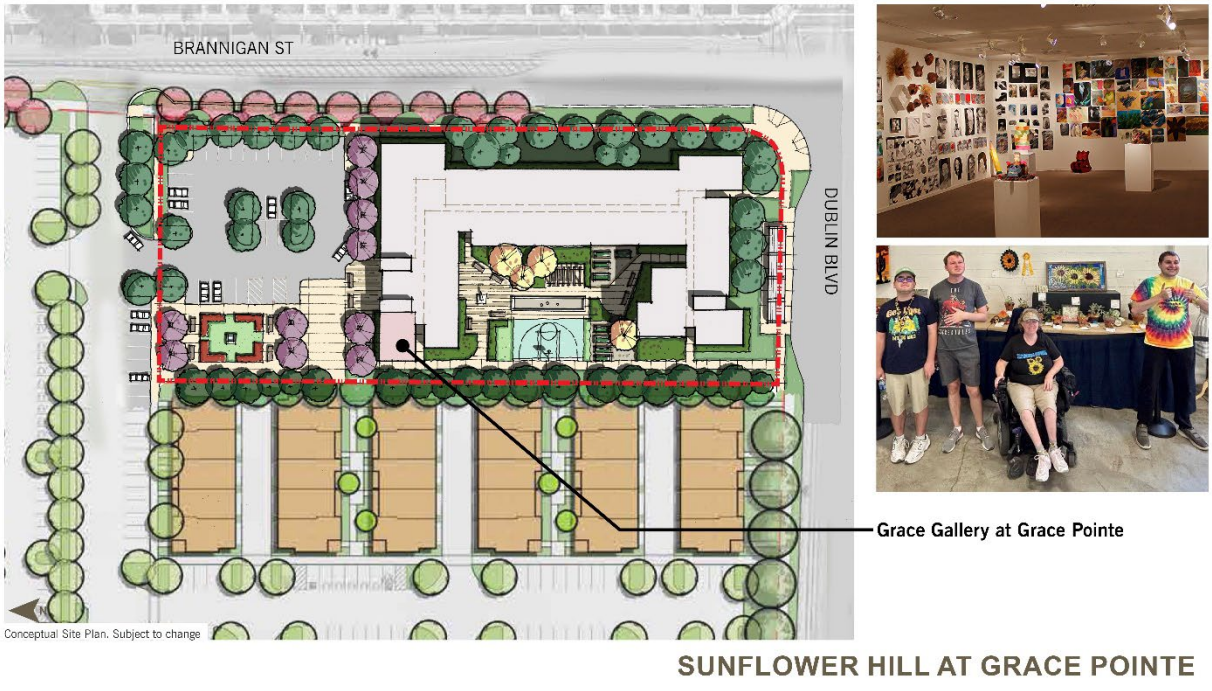
ATTEST:

By: _____
Marsha Moore, City Clerk

APPROVED AS TO FORM:

_____
John Bakker, City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY



The legal description of the property will be provided to the City after the site has been donated and the legal description of the property has been finalized.

EXHIBIT B
PRELIMINARY FINANCING PLAN

Sunflower Hill at Grace Pointe

Version: 60 unit
10/18/2024 10:44 AM

Preliminary Financing Plan

Construction		Permanent	
Uses		**Uses**	
$ 4,540,000	Land / Acquisition	$ 4,540,000	Land / Acquisition
$ 32,705,955	Construction	$ 32,705,955	Construction
$ 1,752,105	Architecture	$ 1,752,105	Architecture
$ 319,000	Survey & Engineering	$ 319,000	Survey & Engineering
$ 2,995,000	Construction Interest & Fees	$ 2,995,000	Construction Interest & Fees
$ -	Permanent Financing	$ 75,000	Permanent Financing
$ 70,000	Legal	$ 70,000	Legal
$ -	Reserves	$ 271,391	Reserves
$ 4,082,971	Other Costs	$ 4,082,971	Other Costs
$ 27,000	Bond Financing Costs	$ 27,000	Bond Financing Costs
$ 1,200,000	Developer Costs	$ 2,380,000	Developer Costs
$ 95,000	Syndication Costs	$ 230,000	Syndication Costs
$ 47,787,031	**Total Uses**	**$ 49,448,422**	**Total Uses**
Sources		**Sources**	
$ -	Perm Loan	$ 1,658,452	Perm Loan
$ 1,724,675	Federal Tax Credit Equity	$ 17,246,746	Federal Tax Credit Equity
$ -	HCD MHP	$ 14,924,823	HCD MHP
$ 900,000	FHLB AHP	$ 900,000	FHLB AHP
$ 5,000,000	City of Dublin	$ 5,000,000	City of Dublin
$ 5,000,000	House Appropriations Allocation	$ 5,000,000	House Appropriations Allocation
$ -	45L & Energy Tax Credits	$ 186,000	45L & Energy Tax Credits
$ 32,400	Green bldg rebates (ZERH & CEDA)	$ 32,400	Green bldg rebates (ZERH & CEDA)
$ 4,500,000	Land Donation - City of Dublin	$ 4,500,000	Land Donation - City of Dublin
$ 30,629,956	Construction Loan		
$ 47,787,031	**Total Sources**	**$ 49,448,421**	**Total Sources**

EXHIBIT C
CITY PROMISSORY NOTE
Attached

PROMISSORY NOTE
(Sunflower Hill at Grace Pointe)

$5,000,000 Dublin, California
_____, 202_

FOR VALUE RECEIVED, the undersigned Sunflower Grace, L.P., a California limited partnership ("Borrower"), hereby promises to pay to the order of the City of Dublin, a California municipal corporation ("Holder"), 100 Civic Plaza, Dublin, California, 94568, Attn: _____, the principal amount of Five Million Dollars ($5,000,000), or so much of such sum as has been disbursed by Holder to Borrower, plus interest thereon pursuant to Section 2 below (the "City Loan").

1. Borrower's Obligation. This promissory note (the "Note") evidences Borrower's obligation to pay Holder the principal amount of Five Million Dollars ($5,000,000) with interest for the funds loaned to Borrower by Holder pursuant to the Affordable Housing Assistance Agreement between Borrower and Holder dated _____ (the "Loan Agreement"). All capitalized terms not otherwise defined in this Note shall have the meanings set forth in the Loan Agreement.

2. Interest. The City Loan bears interest from the date of disbursement pursuant to the Loan Agreement at three percent (3%) simple interest, until full repayment of the outstanding balance of the City Loan.

3. Term and Repayment Requirements. Principal and interest under this Note in the amount of the City Prorata Percentage of Fifty Percent (50%) of the Residual Receipts is due and payable as set forth in Section 4.8 of the Loan Agreement. The unpaid principal balance hereunder, together with accrued interest thereon, is due and payable no later than the date that is the fifty-seventh (57th) anniversary of the date that a final certificate of occupancy is issued by the City of Dublin to certify that the construction of the Development is complete and the Development may be legally occupied (the "Completion Date"), provided, however, if a record of the Completion Date cannot be located or established, the City Loan is due and payable on the fifty-seventh (57th) anniversary of the date of this Note. All outstanding principal and interest under this Note shall be paid in full on the earliest to occur of a Developer Event of Default under the Loan Agreement for which the Holder exercises its right to cause the City Loan to become immediately due and payable.

4. Disbursements. All disbursements shall be in accordance with the terms of the Loan Agreement.

5. Prepayment. Borrower may prepay the City Loan at any time without penalty or fee.

6. Assumption. This Note shall not be assumable by the successors and assigns of Borrower without the prior written consent of Holder unless the assignment complies with Section 7.3 of the Loan Agreement. Holder may assign its interest in the Note to any person or entity in Holder's sole discretion.

7. Security. Effective upon recordation thereof in accordance with the Loan Agreement, this Note shall be secured by the Deed of Trust on the Property, wherein Borrower is the trustor and Holder is the beneficiary. The terms of the Deed of Trust are hereby incorporated into this Note and made a part hereof. Upon recordation of the Deed of Trust, this Note shall be nonrecourse to Borrower and the general and limited partners of the Borrower, and the sole recourse of Holder with respect to the payment of the principal of and interest on this Note shall be to the Property and the Improvements and any other collateral held by Holder as security for this Note; provided however, nothing contained herein is intended to relieve the Borrower of liability to the extent of any loss for fraud or intentional misrepresentation, or bad faith, waste, willful misrepresentation by the Borrower; or the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); or be deemed in any way to limit the rights of the Holder to obtain specific performance by the Borrower of its covenants under the City Documents, other than the covenants to pay the Holder principal and interest due under this Note.

8. Terms of Payment.

(a) All payments due under this Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

(b) All payments on this Note shall be paid to Holder at the address set forth in the first paragraph of this Note, or to such other place as Holder of this Note may from time to time designate.

(c) All payments on this Note shall be without expense to Holder, and Borrower agrees to pay all costs and expenses, including reconveyance fees and reasonable attorney's fees of Holder, incurred in connection with the payment of this Note and the release of any security hereof.

(d) Notwithstanding any other provision of this Note, or any instrument securing the obligations of Borrower under this Note, if, for any reason whatsoever, the payment of any sums by Borrower pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that Holder may legally charge under the laws of the State of California, then the amount by which payments exceed the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall Borrower be obligated under the terms of this Note to pay any interest which would exceed the lawful rate.

9. Default.

(a) Any of the following shall constitute an event of default under this Note:

(i) Any failure to pay, in full, any payment required under this

Note when due following written notice by the Holder of such failure and thirty (30) days opportunity to cure;

(ii) Any failure in the performance by Borrower of any term, condition, provision or covenant set forth in this Note subject to the notice and cure period set forth in Section 10.1 of the Loan Agreement; and

(iii) The occurrence of any Borrower event of default under the Loan Agreement, the Deed of Trust, the Regulatory Agreement, or other instrument securing the obligations of Borrower under this Note or under any other promissory notes hereafter issued by Borrower to Holder pursuant to the Loan Agreement or the Deed of Trust (the "City Loan Documents"), subject to notice and cure periods, if any, set forth therein.

(b) Upon the occurrence of one or more of the foregoing events of default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note and the Deed of Trust shall at the option of Holder become immediately due and payable upon written notice by Holder to Borrower without further demand.

(c) Holder's failure to exercise the remedy set forth in Subsection 9(b) above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by Holder hereof of any payment which is less than the total of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of Holder, except as and to the extent otherwise provided by law.

(d) Notwithstanding anything herein to the contrary, Holder hereby agrees that any cure of any default made or tendered by one or more of Borrower's limited partners shall be deemed a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower. Copies of all notices which are sent hereunder to Borrower shall be sent to Borrower's limited partners at the address provided pursuant to Section 12.3 of the Loan Agreement.

10. Waivers.

(a) Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Borrower.

(b) Any extension of time for payment of this Note or any installment hereof made by agreement of Holder with any person now or hereafter liable for payment of this Note shall not operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

(c) The obligations of Borrower under this Note shall be absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

11. Miscellaneous Provisions.

(a) All notices to Holder or Borrower shall be given in the manner and at the addresses set forth in the Loan Agreement, or to such addresses as Holder and Borrower may therein designate.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(d) This Note shall be governed by and construed in accordance with the laws of the State of California.

(e) The times for the performance of any obligations hereunder shall be strictly construed, time being of the essence.

(f) This document, together with the City Loan Documents, contains the entire agreement between the parties as to the City Loan. It may not be modified except upon written consent of the parties.

IN WITNESS WHEREOF, Borrower is executing this Promissory Note as of the date first above written.

Sunflower Grace, L.P.,
a California limited partnership

By: Sunflower Grace MGP LLC,
a California limited liability company,
its Managing General Partner

By: Satellite Affordable Housing Associates,
a California nonprofit public benefit corporation,
its member/manager

Signed by:
By: Susan Friedland
383354C32FC0425...
Susan Friedland,
Chief Executive Officer

By: Sunflower Grace AGP LLC,
a California limited liability company,
its Administrative General Partner

By: Sunflower Hill,
a California nonprofit public benefit corporation,
its member/manager

Signed by:
By: Janeen Rubino-Brumm
064EE6CBCD684CC...
Janeen Rubino-Brumm
President – Board of Directors

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EXHIBIT D
CITY DEED OF TRUST
Attached

Docusign Envelope ID: 7BE4AAB6-8F0D-4509-B201-1599EA3377D1

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Dublin
100 Civic Plaza
Dublin, CA 94568
Attn: City Manager

No fee for recording pursuant to
Government Code Section 27383 and 27388.1

DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (Sunflower Hill at Grace Pointe)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is made as of _____, 202__, by and among Sunflower Grace, L.P., a California limited partnership ("Trustor"), _____Title Company ("Trustee"), and the City of Dublin, a California municipal corporation ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor's interest in the property located in the County of Alameda, State of California, that is described in the attached Exhibit A, incorporated herein by this reference (the "Property");

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including (without limiting the generality of the foregoing) all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and description now or hereafter erected thereon, and all property of the Trustor now or hereafter affixed to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to said property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed,

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adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent Beneficiary has an interest in such awards for taking as provided in Paragraph 4.1 herein;

TOGETHER WITH all of Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner; and

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing.

All of the foregoing, together with the Property, is herein referred to as the "Security." To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING THE FOLLOWING OBLIGATIONS (the "Secured Obligations"):

(a) Payment to Beneficiary of all sums at any time owing under or in connection with the Note (defined in Section 1.3 below) until paid or cancelled and any other amounts owing under the Loan Documents (defined in Section 1.2 below). Said principal and other payments shall be due and payable as provided in the Note or other Loan Documents, as applicable. The

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Note and all its terms are incorporated herein by reference, and this conveyance shall secure any and all extensions thereof, however evidenced;

(b) Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period, with interest thereon as provided herein;

(c) Performance of every obligation, covenant or agreement of Trustor contained herein and in the Loan Documents; and

(d) All modifications, extensions and renewals of any of the Secured Obligations (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

ARTICLE 1
DEFINITIONS

In addition to the terms defined elsewhere in this Deed of Trust, the following terms shall have the following meanings in this Deed of Trust:

Section 1.1 The term "Loan Agreement" means that certain Affordable Housing Loan Agreement between Trustor and Beneficiary, dated _____, 202__, providing for the Beneficiary to loan to Trustor Five Million Dollars ($5,000,000).

Section 1.2 The term "Loan Documents" means this Deed of Trust, the Note, the Loan Agreement, the Regulatory Agreement, and any other debt, loan or security instruments between Trustor and the Beneficiary relating to the Property.

Section 1.3 The term "Note" means the promissory note in the principal amount of Five Million Dollars ($5,000,000), of even date herewith, executed by Trustor in favor of the Beneficiary, as it may be amended or restated, the payment of which is secured by this Deed of Trust. (A copy of the Note is on file with the Beneficiary and terms and provisions of the Note are incorporated herein by reference.)

Section 1.4 The term "Principal" means the amount required to be paid under the Note.

Section 1.5 The term "Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith by and between the Beneficiary and the Trustor.

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ARTICLE 2
MAINTENANCE AND MODIFICATION OF THE PROPERTY AND SECURITY

Section 2.1 Maintenance and Modification of the Property by Trustor.

The Trustor agrees that at all times prior to full payment and performance of the Secured Obligations, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition, reasonable wear and tear excepted. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals deemed proper and necessary by it. The Beneficiary shall have no responsibility in any of these matters or for the making of improvements or additions to the Security.

Trustor agrees to pay fully and discharge (or cause to be paid fully and discharged) all claims for labor done and for material and services furnished in connection with the Security, diligently to file or procure the filing of a valid notice of cessation upon the event of a cessation of labor on the work or construction on the Security for a continuous period of thirty (30) days or more, and to take all other reasonable steps to forestall the assertion of claims of lien against the Security of any part thereof. Trustor irrevocably appoints, designates and authorizes Beneficiary as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file for record any notices of completion or cessation of labor or any other notice that Beneficiary deems necessary or desirable to protect its interest in and to the Security or the Loan Documents; provided, however, that Beneficiary shall exercise its rights as agent of Trustor only in the event that Trustor shall fail to take, or shall fail to diligently continue to take, those actions as hereinbefore provided.

Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary shall specify upon laborers, materialmen, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the Security. Nothing herein contained shall require Trustor to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting provided that Trustor shall, within thirty (30) days after the filing of any claim of lien, record in the Office of the Recorder of Alameda County, a surety bond in an amount 1 and 1/2 times the amount of such claim item to protect against a claim of lien.

Section 2.2 Granting of Easements.

Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those otherwise required by law, and as approved, in writing, by Beneficiary.

Section 2.3 Assignment of Rents.

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As part of the consideration for the indebtedness evidenced by the Note, Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents and revenues of the Property including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Trustor hereby authorizes Beneficiary or Beneficiary's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Beneficiary or Beneficiary's agents; provided, however, that prior to written notice given by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, Trustor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Trustor to apply the rents and revenues so collected to the Secured Obligations with the balance, so long as no such breach has occurred, to the account of Trustor, it being intended by Trustor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section 2.3 as the same becomes due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Trustor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Trustor of the breach by Trustor shall contain a statement that Beneficiary exercises its rights to such rents. Trustor agrees that commencing upon delivery of such written notice of Trustor's breach by Beneficiary to Trustor, each tenant of the Property shall make such rents payable to and pay such rents to Beneficiary or Beneficiary's agents on Beneficiary's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Trustor.

Trustor hereby covenants that Trustor has not executed any prior assignment of said rents, that Trustor has not performed, and will not perform, any acts or has not executed and will not execute, any instrument which would prevent Beneficiary from exercising its rights under this Section 2.3, and that at the time of execution of this Deed of Trust, there has been no anticipation or prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Trustor further covenant that Trustor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.

Upon Trustor's breach of any covenant or agreement of Trustor in the Loan Documents, Beneficiary may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or

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termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Beneficiary elects to seek the appointment of a receiver for the Property upon Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, Trustor hereby expressly consents to the appointment of such receiver. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor as lessor or landlord of the Property and then to the sums secured by this deed of Trust. Beneficiary or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Beneficiary shall not be liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this Section 2.3.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes shall become part of the Secured Obligations pursuant to Section 3.3 hereof. Unless Beneficiary and Trustor agree in writing to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Trustor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in Section 3.3.

Any entering upon and taking and maintaining of control of the Property by Beneficiary or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Beneficiary under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this Deed of Trust ceases to secure the Secured Obligations.

ARTICLE 3
TAXES AND INSURANCE; ADVANCES

Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

Trustor shall pay, or cause to be paid, prior to the date of delinquency, all taxes, assessments, charges and levies imposed by any public authority or utility company which are or may become a lien affecting the Security or any part thereof; provided, however, that Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as (a) the legality thereof shall be promptly and actively contested in good faith and by appropriate proceedings, and (b) Trustor maintains reserves adequate to pay any liabilities contested pursuant to this Section 3.1. With respect to taxes, special assessments or other similar governmental charges, Trustor shall pay such amount in full prior to the attachment of any lien therefor on any

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part of the Security; provided, however, if such taxes, assessments or charges may be paid in installments, Trustor may pay in such installments. Except as provided in clause (b) of the first sentence of this paragraph, the provisions of this Section 3.1 shall not be construed to require that Trustor maintain a reserve account, escrow account, impound account or other similar account for the payment of future taxes, assessments, charges and levies.

In the event that Trustor shall fail to pay any of the foregoing items required by this Section to be paid by Trustor, Beneficiary may (but shall be under no obligation to) pay the same, after the Beneficiary has notified the Trustor of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the maximum rate permitted by law, shall become part of the Secured Obligations secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2 Provisions Respecting Insurance.

Trustor agrees to provide insurance conforming in all respects to Exhibit J of the Affordable Housing Loan Agreement during the course of construction and following completion, and at all times until all amounts secured by this Deed of Trust have been paid and all Secured Obligations secured hereunder fulfilled, and this Deed of Trust reconveyed.

All such insurance policies and coverages shall be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, shall be delivered to the Beneficiary upon demand therefor at any time prior to Trustor's satisfaction of the Secured Obligations.

Section 3.3 Advances.

In the event the Trustor shall fail to maintain the full insurance coverage required by this Deed of Trust or shall fail to keep the Security in accordance with the Loan Documents, the Beneficiary, after at least seven (7) days prior notice to Trustor, may (but shall be under no obligation to) take out the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by the Beneficiary shall become part of the Secured Obligations (together with interest as set forth below) and shall be secured hereby, which amounts the Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, shall bear interest from the date of the advance at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

ARTICLE 4
DAMAGE, DESTRUCTION OR CONDEMNATION

Section 4.1 Awards and Damages.

All judgments, awards of damages, settlements and compensation made in connection with or in lieu of (1) taking of all or any part of or any interest in the Property by or under

assertion of the power of eminent domain, (2) any damage to or destruction of the Property or in any part thereof by insured casualty, and (3) any other injury or damage to all or any part of the Property (collectively, the "Funds") shall be used to repair or restore the Property, but if the property cannot be repaired or restored such Funds are hereby assigned to and shall be paid to the Beneficiary by a check made payable to the Beneficiary. The Beneficiary is authorized and empowered (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as the Beneficiary shall determine at its sole option. The Beneficiary shall be entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Beneficiary may be released to Trustor upon such conditions as the Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by the Beneficiary or the release thereof shall not cure or waive any default under this Deed of Trust. The rights of the Beneficiary under this Section 4.1 are subject to the rights of any senior mortgage lender. The Beneficiary shall release the Funds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary reasonably determines that Trustor (taking into account the Funds) has sufficient funds to rebuild the improvements in substantially the form they existed prior to the casualty or condemnation.

ARTICLE 5
AGREEMENTS AFFECTING THE PROPERTY; FURTHER ASSURANCES; PAYMENT OF PRINCIPAL AND INTEREST

Section 5.1 Other Agreements Affecting Property.

The Trustor shall duly and punctually perform all terms, covenants, conditions and agreements binding upon it under the Loan Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 5.2 Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Event of Default (as defined in Section 7.1) hereunder, and if the Beneficiary should employ attorneys or incur other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of the Trustor in this Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Beneficiary; and any such amounts paid by the Beneficiary shall be added to the Secured Obligations, and shall bear interest from the date such expenses are incurred at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

Section 5.3 Payment of the Principal.

The Trustor shall pay to the Beneficiary the Principal and any other payments as set forth in the Note in the amounts and by the times set out therein.

Section 5.4 Personal Property.

To the maximum extent permitted by law, the personal property subject to this Deed of Trust shall be deemed to be fixtures and part of the real property and this Deed of Trust shall constitute a fixtures filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust shall constitute a security agreement under the California Commercial Code.

Section 5.5 Financing Statement.

The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security. The Trustor agrees to perform all acts which the Beneficiary may reasonably request so as to enable the Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the Note in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it shall deem appropriate from time to time in order to protect the security interest established pursuant to this instrument.

Section 5.6 Operation of the Security.

The Trustor shall operate the Security (and, in case of a transfer of a portion of the Security subject to this Deed of Trust, the transferee shall operate such portion of the Security) in full compliance with the Loan Documents.

Section 5.7 Inspection of the Security.

At any and all reasonable times upon seventy-two (72) hours' notice, the Beneficiary and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right, without payment of charges or fees, to inspect the Security.

Section 5.8 Nondiscrimination.

The Trustor herein covenants by and for itself, its 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 race, color, creed, religion, age, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Security, nor shall the Trustor itself or any person claiming under or through it 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, subtenants, sublessees or vendees in the Security. The foregoing covenants shall run with the land.

ARTICLE 6
HAZARDOUS WASTE

Trustor shall keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations

relating to industrial hygiene or to the environmental conditions ("Environmental Laws") on, under or about the Property including, but not limited to, soil and ground water conditions. Trustor shall not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except (a) as permitted under Environmental Laws; or (b) such of the foregoing as may be customarily used in construction or operation of a multi-family residential development.

Trustor shall immediately advise Beneficiary in writing if at any time it receives written notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Trustor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); and (ii) all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims").

Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims. Beneficiary shall have its reasonable attorneys' fees in connection therewith paid by Trustor, provided Trustor has failed, based on reasonable evidence produced by Beneficiary, to adequately defend such Hazardous Materials Claims. Trustor shall indemnify, defend, and hold harmless Beneficiary and its councilmembers, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property, including without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (c) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees and consultant's fees. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property; (2) loss or restriction of use of rentable space on the Property; (3) adverse effect on the marketing of any rental space on the Property; and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties).

Without Beneficiary's prior written consent, which shall not be unreasonably delayed or withheld, Trustor shall not take any Environmental Measure or other remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in Beneficiary's

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reasonable judgement, impair the value of the Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain Beneficiary's consent before taking such action, provided that in such event Trustor shall notify Beneficiary as soon as practicable of any action so taken. Beneficiary agrees not to withhold its consent, where such consent is required hereunder, if (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; or (iv) the action has been agreed to by Beneficiary.

The Trustor hereby acknowledges and agrees that (i) this Article is intended as the Beneficiary's written request for information (and the Trustor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Deed of Trust or any of the other Loan Documents (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the property is intended by the Beneficiary and the Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the Beneficiary's or the Trustee's rights and remedies under this Deed of Trust, the Beneficiary may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against the Trustor to judgment, and (b) any other rights and remedies permitted by law. For purposes of determining the Beneficiary's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), the Trustor shall be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and the Trustor knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the Beneficiary in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the default rate specified in the Loan Agreement until paid, shall be added to the indebtedness secured by this Deed of Trust and shall be due and payable to the Beneficiary upon its demand made at any time following the conclusion of such action.

ARTICLE 7
EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default.

The following shall constitute events of default ("Events of Default") following the expiration of any applicable notice and cure periods: (1) failure to make any payment to be paid by Trustor under the Loan Documents; (2) failure to observe or perform any of Trustor's other covenants, agreements or obligations under the Loan Documents, including, without limitation, the provisions concerning discrimination; (3) failure to make any payment or observe or perform any of Trustor's other covenants, agreements, or obligations under any other debt instrument or regulatory agreement secured by the Property, which default shall not be cured within the times and in the manner provided therein; or (4) a default is declared under the Approved Financing by the lender of such Approved Financing. Notwithstanding anything to the contrary contained herein, Beneficiary hereby agrees that any cure of any default made or tendered by one or more of Trustor's limited partners shall be deemed a cure by the Trustor and shall be accepted or rejected on the same basis as if made or tendered by Trustor. Copies of all notices which are sent to Trustor hereunder shall be sent to Investor Limited Partner at the address set forth in the Loan Agreement, and the Investor Limited Partner shall have the right, but not the obligation to cure an Event of Default hereunder, and Beneficiary will accept tender of such cure as if delivered by Trustor.

Section 7.2 Acceleration of Maturity.

If an Event of Default shall have occurred and be continuing, then at the option of the Beneficiary, the amount of any payment related to the Event of Default and all unpaid Secured Obligations shall immediately become due and payable, upon written notice by the Beneficiary to the Trustor (or automatically where so specified in the Loan Documents), and no omission on the part of the Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right.

Section 7.3 The Beneficiary's Right to Enter and Take Possession.

If an Event of Default shall have occurred and be continuing, the Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any Event of Default or Notice of Sale (as defined below) hereunder or invalidate any act done in response to such Event of Default or pursuant to such Notice of Sale, and, notwithstanding the continuance in possession of the Security, Beneficiary shall be entitled to exercise every right provided for in this Deed of

Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold ("Notice of Sale"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of Alameda County; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing the Secured Obligations.

Section 7.4 Foreclosure By Power of Sale.

Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall deliver to the Trustee the Notice of Sale and shall deposit with Trustee this Deed of Trust which is secured hereby (and the deposit of which shall be deemed to constitute evidence that the Secured Obligations are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(a) Upon receipt of the Notice of Sale from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in the Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise by the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale.

(b) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (i) the unpaid Principal amount of the Note; (ii) all other Secured Obligations owed to Beneficiary under the Loan Documents; (iii) all other sums then secured hereby; and (iv) the remainder, if any, to Trustor.

(c) Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter, and without

further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

Section 7.5 Receiver.

If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6 Remedies Cumulative.

No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.7 No Waiver.

(a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary. Beneficiary's express or implied consent to breach, or waiver of, any obligation of the Trustor hereunder shall not be deemed or construed to be a consent to any subsequent breach, or further waiver, of such obligation or of any other obligations of the Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by the Trustor.

(b) If the Beneficiary (i) grants forbearance or an extension of time for the payment or performance of any Secured Obligation, (ii) takes other or additional security or the payment of any sums secured hereby, (iii) waives or does not exercise any right granted in the Loan Documents, (iv) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Loan Documents, (v) consents to the granting of any easement or other right affecting the Security, or (vi) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of the Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor shall any

such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary shall the lien of this Deed of Trust be altered thereby.

Section 7.8 Suits to Protect the Security.

The Beneficiary shall have power to (a) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust, (b) preserve or protect its interest (as described in this Deed of Trust) in the Security, and (c) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

Section 7.9 Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Trustor, its creditors or its property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by the Trustor hereunder after such date.

Section 7.10 Waiver.

The Trustor waives presentment, demand for payment, notice of dishonor, notice of protest and nonpayment, protest, notice of interest on interest and late charges, and diligence in taking any action to collect any Secured Obligations or in proceedings against the Security, in connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Deed of Trust.

ARTICLE 8
MISCELLANEOUS

Section 8.1 Amendments.

This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2 Reconveyance by Trustee.

Upon written request of Beneficiary stating that all Secured Obligations have been paid or forgiven, and all obligations under the Loan Documents have been performed in full, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment

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by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3 Notices.

Formal notices, demands, and communications between the Parties shall be sufficiently given if and shall not be deemed given unless (a) dispatched by registered or certified mail, postage prepaid, return receipt requested, (b) delivered by express delivery service, return receipt requested, (c) delivered personally, or (d) sent by electronic mail, provided that any notice sent by electronic mail must be followed by notice delivered under either (a), (b), or (c) within 2 business days. All such notices shall be delivered to the principal office of the Parties as follows:

Borrower: Sunflower Grace, L.P.
c/o Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA 94703
Attention: Chief Executive Officer

City: City of Dublin
100 Civic Plaza
Dublin, CA 94568
Attn: Community Development Director

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable) except that any electronic mail received after 5:00 p.m. shall be deemed to have been received on the next business day.

Section 8.4 Successors and Joint Trustors.

Where an obligation created herein is binding upon Trustor, the obligation shall also apply to and bind any transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an obligation of the Trustor and a transferee, such obligation shall be deemed to be a joint and several obligation of the Trustor and such transferee. Where Trustor is more than one entity or person, all obligations of Trustor shall be deemed to be a joint and several obligation of each and every entity and person comprising Trustor.

Section 8.5 Captions.

The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6 Invalidity of Certain Provisions.

Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or

other body of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid or applied to the full payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7 Governing Law.

This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California.

Section 8.8 Gender and Number.

In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa, if the context so requires.

Section 8.9 Deed of Trust, Mortgage.

Any reference in this Deed of Trust to a mortgage shall also refer to a deed of trust and any reference to a deed of trust shall also refer to a mortgage.

Section 8.10 Actions.

Trustor agrees to appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11 Substitution of Trustee.

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.

Section 8.12 Statute of Limitations.

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.

Section 8.13 Acceptance by Trustee.

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.

Section 8.14 Tax Credit Provisions.

Notwithstanding anything to the contrary contained herein or in any documents secured by this Deed of Trust or contained in any subordination agreement, the Beneficiary acknowledges and agrees that in the event of a foreclosure or deed-in-lieu of foreclosure (collectively, "Foreclosure") with respect to the Security encumbered by this Deed of Trust, the following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986 (26 USC 42 (h)(6)(E)(ii)), as amended, shall apply:

For a period of three (3) years from the date of Foreclosure, with respect to any unit that had been regulated by a Regulatory Agreement with the California Tax Credit Allocation Committee, (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.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

SUNFLOWER GRACE, L.P.,
a California limited partnership

By: Sunflower Grace MGP LLC,
a California limited liability company,
its Managing General Partner

By: Satellite Affordable Housing Associates,
a California nonprofit public benefit corporation,
its member/manager

By: Signed by: 383354C32FC6425...
Susan Friedland,
Chief Executive Officer

By: Sunflower Grace AGP LLC,
a California limited liability company,
its Administrative General Partner

By: Sunflower Hill,
a California nonprofit public benefit corporation,
its member/manager

By: Signed by: Janeen Rubino-Brumm 064FE6CBCD684CC...
Name: Janeen Rubino-Brumm
Its: President, Board of Directors

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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 _____)

On _____, 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.

_____
Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION



The legal description of the property will be provided to the City after the site has been donated and the legal description of the property has been finalized.

EXHIBIT E
SCHEDULE OF PERFORMANCE

Performance Milestones	**Milestone Completion Date**
Developer satisfaction of Conditions Precedent to Disbursement of Predevelopment Component of City Loan.	Not later than June 30, 2025
Close of escrow for Construction Financing	Not later than November 30, 2027
Commencement of construction and development work on Development	Within 30 days after Construction Loan Closing, and not later than December 31, 2027
Completion of construction and development work on Development	Not later than November 30, 2029
Commencement of occupancy of apartment units	Not later than January 31, 2030
Full occupancy of apartment units	Not later than July 31, 2030

EXHIBIT F
SCOPE OF DEVELOPMENT

Sunflower Hill at Grace Pointe will provide approximately 60 permanently and deeply affordable homes. The physical amenities on the 1.8 acre site will include a landscaped central courtyard with community garden and informal seating areas. The three-story U-shaped apartment building will include a mix of apartment sizes as well as a multipurpose community room with teaching kitchen and community art space.

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EXHIBIT G
CITY REGULATORY AGREEMENT
Attached

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Recording Requested by
and when Recorded, return to:

City of Dublin
100 Civic Plaza
Dublin, CA 94568
Attn: City Clerk

EXEMPT FROM RECORDING FEES PER GOVERNMENT CODE §§6103, 27383

APN: _____

Space above this line for Recorder's use.

AFFORDABLE HOUSING REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (Sunflower Hill at Grace Pointe)

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (this "**Agreement**") is dated as of _____, 202__, by and between the City of Dublin, a municipal corporation ("**City**"), and Sunflower Grace, L.P., a California limited partnership ("**Owner**"). City and Owner are hereinafter collectively referred to as the "**Parties**." This Agreement shall be effective as of the date this Agreement is recorded ("**Effective Date**").

RECITALS

A. The City has adopted the City Inclusionary Zoning Regulations Ordinance, set forth in Chapter 8.68 of the Dublin Municipal Code (the "**Ordinance**"). The Ordinance at 8.68.030(A) requires that all new rental residential development projects, and all for-sale condominium development projects with a density of 30 units per acre or more, with 10 units or more shall construct ten percent of the total number of dwelling units within the development as affordable units, except as otherwise provided in the Ordinance, and except when all of the dwelling units within the project are affordable. The Ordinance 8.68.030(B) further provides that all for-sale (ownership) residential development projects (including condominium development projects with a density of less than 30 units per acre) of 10 units or more shall construct fifteen percent of the total number of dwelling units within the development as affordable units, except as otherwise provided in the Ordinance.

B. A developer may meet its 8.68.030 inclusionary housing requirement through one or more of the exceptions set in 8.68.040 of the Ordinance, which includes land dedication to the City or City-designated local non-profit housing developer in lieu of the developer's construction of some or all of the required affordable units if the City Council finds that (1) the dedication of land is consistent with the Ordinance's goal of creating housing for very-low, low- and moderate-income households, (2) the dedicated land is useable for its intended purposes, is free of toxic substances and contaminated soils, and is fully improved, with infrastructure, adjacent utilities, grading, and all development-impact fees paid excluding any inclusionary zoning

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ordinance fees, and (3) the proposed land dedication is of sufficient size to meet the requirements set forth in 8.68.040(C)(3). Section 8.68.040 also provides that the City Council may waive, wholly or partially, the requirements of the Ordinance and approve alternate methods of compliance which meet the purposes of the Ordinance.

C. Owner acquired certain property located within the Dublin Centre project site in the City of Dublin, California, more particularly described as Exhibit A (the "**Property**").

D. The Owner intends to develop, construct, own, and operate on the Property the affordable rental housing project consisting of approximately sixty (60) rental housing units, with fifty-nine (59) of such units to be affordable units for Extremely Low and Low Income Households (the "**Development**"). The Development will include a manager's unit that will not be subject to affordability restrictions.

E. The City and the Owner have entered into an Affordable Housing Loan Agreement (the "**Loan Agreement**") pursuant to which the City will loan to Owner Five Million Dollars ($5,000,000) (the "**City Loan**"). The City Loan will be used, together with funds obtained from other sources, for the development, construction and operation of the Development and will make the Development more competitive for the other affordable housing funding sources.

F. The Parties have agreed to enter into and record this Agreement in order to satisfy the conditions described in the foregoing Recitals. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Owner and Owner's successors and assigns for a period of not less than fifty-five (55) years from the date a Certificate of Occupancy is issued for the Development.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1. Definitions. The following terms have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

"**Actual Household Size**" means the actual number of persons in the applicable household.

"**Adjusted for Family Size Appropriate to the Unit**" shall be determined consistent with Section 50052.5(h) of the California Health and Safety Code and applicable federal rules, including the rules and regulations applicable to the use of federal low-income housing tax credits.

"**Adjusted Income**" means the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income. In the event that no such program exists, the City shall provide the Owner with a reasonably similar method of calculation of adjusted income as provided in said Section 6914.

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"**Affordable Rent**" means that the gross monthly rent payable by the tenant does not exceed one-twelfth of thirty percent (30%) of the applicable AMI limit, Adjusted for Family Size Appropriate to the Unit, as specified in Section 2.2, less a reasonable utility allowance.

"**Area Median Income**" or "**AMI**" means the median gross yearly income adjusted for Actual Household Size (to qualify residents) or Assumed Household Size (to calculate rents), as applicable, in the County of Alameda, California, as published from time to time by HCD. In the event that such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, the City shall provide the Owner with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HCD.

"**Assumed Household Size**" shall have the meaning set forth in Section 2.2. The definition is utilized to calculate Affordable Rent and is not intended to be a limit on the number of persons occupying a unit.

"**City Loan**" is defined in Recital E.

"**Claims**" is defined in Section 10.

"**Eligible Household**" means a household for which gross household income upon initial occupancy does not exceed the applicable maximum income level for a Restricted Unit as specified in Section 2.1.

"**Extremely Low Income Household**" shall mean a household with an Adjusted Income that does not exceed thirty percent (30%) of Area Median Income, adjusted for Actual Household Size, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, and as published by HCD.

"**Extremely Low Income Rent**" shall mean the rent permitted to be charged for an Extremely Low Income Unit pursuant to Section 2.1(b) below.

"**Extremely Low Income Units**" shall mean the Units, which, pursuant to Section 2.1(b) below, are required to be occupied by Extremely Low Income Households.

"**Indemnitees**" is defined in Section 10.

"HCD" means the California Department of Housing and Community Development.

"**Low Income Household**" shall mean a household with an Adjusted Income that does not exceed sixty percent (60%) of Area Median Income, as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937, and as published by HCD.

"**Low Income Rent**" means the rent allowed to be charged on the Low Income Units pursuant to Section 2.1(a) below.

"**Low Income Units**" mean the Units that, pursuant to Section 2.1(a) below, are required to be occupied by Low Income Households.

"**Management and Marketing Plan**" is defined in Section 6.4.

"Note" means the Secured Promissory Note dated as of_____, 202__, in the original principal amount of Five Million Dollars ($5,000,000), for the construction and permanent period evidencing the City Loan to the Owner.

"**Regulations**" means Title 25 of the California Code of Regulations.

"**Rent**" means the total of monthly payments by the residents of a Restricted Unit (other than the manager's Unit) for the following: (1) use and occupancy of the Restricted Unit and land and related improvements, including parking; (2) any separately charged fees or service charges assessed by the Owner which are required of all tenants, other than security deposits; (3) the cost of an adequate level of service for utilities paid by the tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service, cable service or any other utility or service permitted to be excluded from the calculation of Rent pursuant to the terms of 25 California Code of Regulations Section 6918; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Owner, and paid by the tenant.

"**Restricted Unit**" means a dwelling unit which is reserved for occupancy at an Affordable Rent by a household of not more than a specified household income in accordance with and as set forth in Section 2.1.

2. Use and Affordability Restrictions. Owner hereby covenants and agrees, for itself and its successors and assigns, that the Property shall be used solely for the operation of an affordable residential rental development consisting of the Development and related improvements, in compliance with the Loan Agreement and the requirements set forth herein. Owner represents and warrants that it has not entered into any agreement that would restrict or compromise its ability to comply with the occupancy and affordability restrictions set forth in this Agreement, and Owner covenants that it shall not enter into any agreement that is inconsistent with such restrictions without the express written consent of City.

2.1 Affordability Requirements.

For a term of fifty-five (55) years commencing upon the date of issuance of a final certificate of occupancy or equivalent for the Development, the following residential units in the Development will be restricted for occupancy by Extremely Low and Low Income Households as set forth below (the "**Restricted Units**"). The City and the Owner acknowledge that other financing sources for the Development may impose additional affordability restrictions on the Development.

(a) ___ of the Restricted Units shall be rented to and occupied by or, if vacant, available for occupancy by Low Income Households; and

(b) ___ of the Restricted Units shall be rented to and occupied by, or if vacant, available for occupancy by Extremely Low Income Households.

In the event that recertification of tenant incomes indicates that the number of Restricted Units in the Development actually occupied by Eligible Households falls below the number reserved for each income group as specified in this Section 2.1, Owner shall rectify the condition by renting the next available dwelling unit(s) in the Development to Eligible Household(s) until the required income mix is achieved.

2.2 Rents for Restricted Units.

(a) Low Income Rent. Subject to Section 2.2(e) below, the Rent charged to Residents of the Low Income Units shall not exceed one-twelfth ($1/12^{th}$) of thirty percent (30%) of sixty percent (60%) of Area Median Income, adjusted for Assumed Household Size.

(b) Extremely Low Income Rent. Subject to Section 2.2(e) below, the Rent charged to Residents of the Low Income Units shall not exceed one-twelfth ($1/12^{th}$) of thirty percent (30%) of thirty percent (30%) of Area Median Income, adjusted for Assumed Household Size.

(c) Assumed Household Size. In calculating the allowable Rent for the Units, Assumed Household Size shall be the federally-mandated household size assumptions as set forth in federal statutes or regulations for programs also providing financial assistance to the Development ("**Assumed Household Size**").

(d) Annual Rent Increases. The Rent may only be increased one time per year (unless otherwise approved in writing by the City) and the Rent level following an increase, or upon a new occupancy, shall not exceed the Rent level set forth in subsection (a) above, as applicable. Households occupying Restricted Units shall be given at least thirty (30) days written notice prior to any increase in the Rent.

(e) Use of TCAC Standards. During the term of any regulatory agreement associated with the provision of low income housing tax credits by the California Tax Credit Allocation Committee ("TCAC") and recorded against the Property (the "TCAC Regulatory Agreement"), Owner may use the occupancy standards, assumed household sizes, income limits, rent levels and rent increases that are permitted by TCAC in the TCAC Regulatory Agreement, in place of such requirements imposed by this Regulatory Agreement. During the term of the TCAC Regulatory Agreement, compliance with the TCAC Regulatory Agreement as it pertains to occupancy standards, assumed household sizes, income limits, rent levels and rent increases shall be deemed compliance with such requirements of this Agreement.

2.3 Increase in Tenant Income.

2.3.1 Increase Above Initial Qualifying Income. If upon recertification of tenant incomes, Owner determines that the household income of a tenant has increased and exceeds the income level for an Extremely Low Income Household, Low Income Household, or other applicable the applicable income category in which the tenant initially qualified under a regulatory agreement required by other Development financing, then upon expiration of the tenant's lease: (i) such tenant's unit shall continue to be considered as a unit in the initial

applicable income category, (ii) upon ninety (90) days' written notice to the Tenant, such tenant's rent may be increased to an Affordable Rent for the income category for which the tenant qualifies, and (iii) Owner shall rent the next available residential unit at an Affordable Rent to a household that qualifies in the income category in which the tenant initially qualified in order to achieve the affordability requirements of this Agreement.

2.3.2 Non-Qualifying Household. If, upon recertification of tenant incomes, Owner determines that a tenant's household income has increased to exceed 80% of the Area Median Income, such tenant shall be permitted to continue to occupy the unit and upon expiration of the tenant's lease: (i) upon 90 days' written notice, such tenant's rent may be increased to the lesser of one-twelfth of thirty percent (30%) of the household's actual income or the fair market rent, (ii) the unit shall continue to be classified as satisfying the income category for which the tenant originally qualified, and (iii) when the tenant vacates the unit, the unit shall be rented at an Affordable Rent to an Eligible Household that qualifies in the income category for which the former tenant initially qualified in order to achieve the affordability requirements of this Agreement.

In the event of inconsistency between the provisions of Sections 2.3.1 or 2.3.2 and the rules applicable to the Project in connection with low-income housing tax credits, tax-exempt bond financing, or financing or rent subsidies provided to the Project by a federal, State or other public agency, the rules applicable pursuant to such financing or subsidy source shall prevail.

Applications will be ranked in lottery and preference order. Preferences determine the ranking by which applicants are selected but will not affect an applicant's eligibility. Preference order will be determined based on a point preference system established by the City for this Development (the "Points Preference System"). The City shall provide its point system and preference order to the Owner for incorporation by reference and attachment as an exhibit to the Management and Marketing Plan. The City's point system and preference order referenced in and attached to the Management and Marketing Plan will supersede the points system in section 8.68.050 of the Dublin Municipal Code, and has been approved as an alternate means of compliance by the City Council pursuant to Dublin Municipal Code section 8.86.040(E). The point system and preference order shall be subject to the program requirements of Project-Based Section 8 or other Rental Subsidies.

This Section 2.3 is subject to Development financing approved by the City and to fair housing laws.

2.4 Manager's Unit. One (1) dwelling unit in the Development may be used as a resident manager's unit, and shall be exempt from the occupancy and rent restrictions set forth in this Agreement.

2.5 No Condominium Conversion. Owner shall not convert the Development to condominium or cooperative ownership or sell condominium or cooperative rights to the Development or any part thereof during the term of this Agreement.

2.6 Non-Discrimination; Compliance with Fair Housing Laws.

2.6.1 Fair Housing. Owner shall comply with state and federal fair housing laws in the marketing and rental of the units in the Development. Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing Section 8 program or any successor thereto.

2.6.2 Non-Discrimination. Owner shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of any person. Owner covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition 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 Property or part thereof, nor shall Owner or any person claiming under or through Owner 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, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Owner shall include such provision in all deeds, leases, contracts and other instruments executed by Owner, and shall enforce the same diligently and in good faith.

3. Reporting Requirements.

3.1 Tenant Certification. Owner or Owner's authorized agent shall obtain from each household prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

(a) The identity of each household member; and

(b) The total gross household income; and

(c) The number and type of calculated preference points, if applicable.

Owner shall retain such certificates for not less than five (5) years, and upon City's request, shall provide copies of such certificates to City and make the originals available for City inspection.

3.2 Annual Report; Inspections. By not later than April 30 of each year during the term of this Agreement, Owner shall submit an annual report ("**Annual Report**") to the City in form satisfactory to City, together with a certification that the Development is in compliance with the requirements of this Agreement. The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Development as of the date of the Annual Report: (i) unit number; (ii) number of bedrooms; (iii) current rent and other charges, specifying the amount chargeable to the Tenant; and (iv) dates of any vacancies during the previous year;

(v) number of people residing in the unit ; (vi) total gross household income of residents; (vii) documentation of source of household income; and (viii) the information required by Section 3.1. The Annual Report shall include a site improvement and maintenance plan and shall include a report on the current waitlist, including number of households, unit size desired, typical wait period. Owner shall include with the Annual Report, an income recertification for each household, documentation verifying tenant eligibility, and such additional information as City may reasonably request from time to time in order to demonstrate compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Development is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of state or federal low-income housing tax credits or tax-exempt bond financing, Owner may satisfy the requirements of this Section by providing City with a copy of compliance reports required in connection with such financing.

Owner shall permit representatives of City to enter and inspect the Property, the Development, and records, during reasonable business hours in order to monitor compliance with this Agreement upon forty-eight (48) hours advance notice of such visit to Owner or to Owner's management agent.

The Development shall be subject to an annual monitoring fee, as adjusted from time to time pursuant to the City's Master Fee Schedule.

4. Term of Agreement.

4.1 Term of Restrictions. This Agreement shall remain in effect through the fifty-fifth (55^{th}) anniversary of the issuance of the final certificate of occupancy or equivalent, or the final inspection for the Development, unless the term is extended by mutual agreement of the Parties.

4.2 Effectiveness Succeeds Conveyance of Property and Repayment of Loan. This Agreement shall remain effective and fully binding for the full term hereof, as such may be extended pursuant to Section 4.1, regardless of (i) any sale, assignment, transfer, or conveyance of the Property or the Development or any part thereof or interest therein, (ii) any payment, prepayment or extinguishment of the Loan or Note, or (iii) any reconveyance of the Deed of Trust.

4.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the term as such may be extended pursuant to Section 4.1.

5. Binding Upon Successors; Covenants to Run with the Land. Owner hereby subjects its interest in the Property and the Development to the covenants and restrictions set forth in this Agreement. The City and Owner hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest,

transferees, and assigns of Owner and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Development or any part thereof or interest therein. Any successor-in-interest to Owner, including without limitation any purchaser, transferee or lessee of the Property or the Development (other than the tenants of the individual dwelling units within the Development) shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement. Each and every contract, deed, or other instrument affecting or conveying the Property or the Development or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, or other instrument. If any such contract, deed, or other instrument has been executed prior to the date hereof, Owner hereby covenants to obtain and deliver to City an instrument in recordable form signed by the parties to such contract, deed, or other instrument pursuant to which such parties acknowledge and accept this Agreement and agree to be bound hereby.

Owner agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property and the Development in favor of City.

6. Property Management; Repair and Maintenance; Marketing.

6.1 Management Responsibilities. Owner shall be responsible for all management functions with respect to the Property and the Development, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. City shall have no responsibility for management or maintenance of the Property or the Development.

6.2 Management Entity. City shall have the right to review and approve the qualifications of the management entity proposed by Owner for the Development. The contracting of management services to a management entity shall not relieve Owner of its primary responsibility for proper performance of management duties.

6.3 Repair, Maintenance and Security. Throughout the term of this Agreement, Owner shall at its own expense, maintain the Property and the Development in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Owner agrees to maintain the Development and the Property (including without limitation, the residential units, common areas, meeting rooms, landscaping, driveways, parking areas and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Development. Owner shall prevent and/or rectify any physical deterioration of the Property and the Development and shall make all repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair. Owner shall provide adequate security services for occupants of the Development. The Management and Marketing Plan shall provide for the installation of a security camera system at initial

occupancy. Nothing in the proceeding sentence shall require the continued use of a camera system if the parties agree upon a different or updated security system.

6.3.1 City's Right to Perform Maintenance. In the event that Owner breaches any of the covenants contained in Section 6.3, and such default continues for a period of ten (10) days after written notice from City (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City (with respect to landscaping, building improvements and general maintenance), then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Property. All costs expended by City in connection with the foregoing, shall constitute an indebtedness secured by a deed of trust in favor of the City, which shall be recorded upon the closing of the City Loan (the "**Deed of Trust**"), and shall be paid by Owner to City upon demand. All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor shall bear interest at the lesser of ten percent (10%) per annum or the highest rate permitted by applicable law.

6.4 Management and Marketing Plan. Prior to the start of construction of the Development, Owner shall submit for City review and approval, a plan for managing the Property and marketing the Project**.** (the "**Management and Marketing Plan**"). The Management and Marketing Plan shall be updated after two (2) years and then again every five (5) years. The City will provide no less than 90 days' notice to Owner before each Management and Marketing Plan is due. Updates and revisions to the Management and Marketing Plan may be subject to prior approval of Owner's investor limited partner or other project lenders before being implemented.

The Management and Marketing Plan shall describe the management team and shall address how the Owner and the management entity plan to manage and maintain the Property and the Development. The Management and Marketing Plan shall include the proposed management agreement and the form of rental agreement that Owner proposes to enter into with Development tenants. The Management and Marketing Plan shall address in detail how Owner plans to market the Restricted Units to prospective Eligible Households in accordance with the City's Inclusionary Zoning Ordinance Regulations, subject to any City waivers for this Development, fair housing laws and this Agreement, Owner's tenant selection criteria, and how Owner plans to certify the eligibility of Eligible Households. Owner shall abide by the terms of the Management and Marketing Plan in marketing, managing, and maintaining the Property and the Development, and throughout the term of this Agreement, shall submit proposed modifications to City for review and approval.

The Management and Marketing Plan shall also include the following:

(a) Establishment of a "crime free" environment by participation in the City of Dublin's Crime Free Multi Housing Program.

(b) Plan to provide on-site programs and services for extremely low and low-income residents.

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6.5 Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plan, the proposed management entity, or a proposed amendment or change to any of the foregoing within forty-five (45) days following City's receipt of such plan, proposal or amendment, the plan, proposal or amendment shall be deemed approved by City.

6.6 Fees, Taxes, and Other Levies. Owner shall be responsible for payment of all fees, assessments, taxes, charges, liens and levies applicable to the Property or the Development, including without limitation possessory interest taxes, if applicable, imposed by any public entity, and shall pay such charges prior to delinquency. However, Owner shall not be required to pay any such charge so long as (a) Owner is contesting such charge in good faith and by appropriate proceedings, (b) Owner maintains reserves adequate to pay any contested liabilities, and (c) on final determination of the proceeding or contest, Owner immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges and interest. The Parties acknowledge that the Owner will apply for exemption from property tax under Revenue and Taxation Code Section 214.

6.7 Insurance Coverage. Throughout the term of this Agreement Owner shall at Owner's expense, maintain in full force and effect insurance coverage as specified in Exhibit J of the Loan Agreement and shall comply with all insurance requirements set forth in the Loan Agreement .

6.8 Property Damage or Destruction. If any part of the Development is damaged or destroyed, Owner shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced as soon as reasonably practicable after the damage or loss occurs and shall be completed within one year thereafter or as soon as reasonably practicable, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. During such time that lenders or low-income housing tax credit investors providing financing for the Development impose requirements that differ from the requirements of this Section the requirements of such lenders and investors shall prevail.

7. Recordation; Subordination. This Agreement shall be recorded in the Official Records of Alameda County. Owner hereby represents, warrants and covenants that with the exception of easements of record, absent the written consent of City, this Agreement shall not be subordinated in priority to any lien (other than those pertaining to taxes or assessments), encumbrance, or other interest in the Property or the Development. If at the time this Agreement is recorded, any interest, lien, or encumbrance has been recorded against the Development in position superior to this Agreement, upon the request of City, Owner hereby covenants and agrees to promptly undertake all action necessary to clear such matter from title or to subordinate such interest to this Agreement consistent with the intent of and in accordance with this Section 7, and to provide such evidence thereof as City may reasonably request. Notwithstanding the foregoing, the City agrees that City will not withhold consent to reasonable requests for subordination of this Agreement to deeds of trust provided for the benefit of lenders identified in the Financing Plan (as defined in the Loan Agreement) as it may be updated with City approval, provided that the instruments effecting such subordination include reasonable protections to the City in the event of default, including without limitation, extended notice and cure rights.

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8. Transfer and Encumbrance.

8.1 Restrictions on Transfer and Encumbrance. During the term of this Agreement, except as permitted pursuant to the Loan Agreement or this Agreement, Owner shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, "**Transfer**") of the whole or any part of the Property, the Development, or the improvements located on the Property, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the term of this Agreement, except as expressly permitted by this Agreement or the Loan Agreement, Owner shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a "significant change of ownership" shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and /or control of Owner, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to subsequent limited partners shall be restricted by this provision.

8.2 Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions on Transfer set forth herein shall not be deemed to prevent: (i) the granting of easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to the Loan Agreement; (iii) the lease of individual dwelling units to tenants for occupancy as their principal residence in accordance with this Agreement or the lease of commercial space to commercial tenants, if applicable; (iv) assignments creating security interests for the purpose of financing the acquisition, construction, or permanent financing of the Development or the Property in accordance with the Loan Agreement, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; (v) a Transfer to a limited partnership in which the managing general partner is a tax-exempt entity under the direct control of or under common control with Owner; (vi) the admission of limited partners and any transfer of limited partnership interests in accordance with Owner's agreement of limited partnership (the "**Partnership Agreement**"), provided that the Partnership Agreement and/or the instrument of Transfer provides for development and operation of the Property and Development in a manner consistent with the Loan Agreement and this Agreement; (vii) the removal of the general partner by the investor limited partner for a default under the Partnership Agreement, provided the replacement general partner is reasonably satisfactory to City; or (viii) the transfer of the General Partner's interest to a nonprofit entity that is or its member/manager is tax-exempt under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended, provided such replacement general partner is reasonably satisfactory to City.

In addition, City shall not withhold its consent to the sale, transfer or other disposition of the Development, in whole or in part, provided that (a) the Development is and shall continue to be operated in compliance with this Agreement; (b) the transferee expressly assumes all obligations of Owner imposed by this Agreement; (c) the transferee executes all documents reasonably requested by the City with respect to the assumption of the Owner's obligations under this Agreement, and upon City's request, delivers to the City an opinion of its counsel to the effect that such document and this Agreement are valid, binding and enforceable obligations of such transferee; and (d) either (A) the transferee has at least three (3) years' experience in the ownership, operation and management of low-income multifamily rental housing projects of

similar size to that of the Development, without any record of material violations of nondiscrimination provisions or other state or federal laws or regulations applicable to such projects, or (B) the transferee agrees to retain a property management firm with the experience and record described in subclause (A).

Article VI of the Loan Agreement shall govern procedures applicable to requests for, and City's approval of, proposed Transfers. Unless waived by City, Owner shall reimburse City for all City costs, including but not limited to reasonable attorneys' fees, incurred in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten (10) days following City's delivery of an invoice detailing such costs.

8.3 Encumbrances. Owner agrees to use best efforts to ensure that any subordination agreement recorded against the Property, the Development or part thereof for the benefit of a lender other than City ("**Third-Party Lender**") shall contain each of the following provisions: (i) Third-Party Lender shall use its best efforts to provide to City a copy of any notice of default issued to Owner concurrently with provision of such notice to Owner; (ii) City shall have the reasonable right, but not the obligation, to cure any default by Owner within the same period of time provided to Owner for such cure extended by an additional sixty (60) days; (iii) provided that City has cured any default under Third-Party Lender's deed of trust and other loan documents, City shall have the right to foreclose City's Deed of Trust and take title to the Development without acceleration of Third-Party Lender's debt; and (iv) City shall have the right to transfer the Development without acceleration of Third-Party Lender's debt to a nonprofit corporation or other entity which shall own and operate the Development as an affordable rental housing project, subject to the prior written consent of the Third-Party Lender. Owner agrees to provide to City a copy of any notice of default Owner receives from any Third-Party Lender within three (3) business days following Owner's receipt thereof.

8.4 Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Development or the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Development or the Property that such violation has occurred.

9. Default and Remedies.

9.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder ("**Event of Default**"):

(a) The occurrence of a Transfer in violation of Section 8 hereof;

(b) Owner's failure to maintain insurance on the Property and the Development as required hereunder, and the failure of Owner to cure such default within ten (10) days;

(c) Subject to Owner's right to contest the following charges, Owner's failure to pay taxes or assessments due on the Property or the Development or failure to pay any other charge that may result in a lien on the Property or the Development, and Owner's failure to cure such default within thirty (30) days of delinquency;

(d) A default has been declared under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan;

(e) A default arises under the Loan Agreement, the Note, the Deed of Trust or any other City Document (as defined in the Loan Agreement) and remains uncured beyond the expiration of any applicable cure period;

(f) Owner's default in the performance of any term, provision or covenant under this Agreement (other than an obligation enumerated in this Subsection 9.1), and unless such provision specifies a shorter cure period for such default, the continuation of such default for ten (10) days in the event of a monetary default or thirty (30) days in the event of a non-monetary default following the date upon which City shall have given written notice of the default to Owner, or if the nature of any such non-monetary default is such that it cannot be cured within thirty (30) days, Owner's failure to commence to cure the default within thirty (30) days and thereafter prosecute the curing of such default with due diligence and in good faith, but in no event longer than ninety (90) days from receipt of the notice of default or such longer period of time as City may allow.

The limited partners of Owner shall have the right to cure any default of Owner hereunder upon the same terms and conditions afforded to Owner. Provided that City has been given written notice of the address for delivery of notices to the limited partners, City shall provide any notice of default hereunder to the limited partners concurrently with the provision of such notice to Owner, and as to the limited partners, the cure periods specified herein shall commence upon the date of delivery of such notice in accordance with Subsection 11.3.

9.2 Remedies. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

A. Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;

B. Accelerate and declare the balance of the Note and interest accrued thereon immediately due and payable and proceed with foreclosure under the Deed of Trust;

C. For violations of obligations with respect to rents for Restricted Units, impose as liquidated damages a charge in an amount equal to the actual amount collected in excess of the Affordable Rent;

D. Pursue any other remedy allowed at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

10. Indemnity. Notwithstanding any other provision in the Loan Agreement or other documents executed in connection with the City Loan, Owner shall indemnify, defend (with counsel approved by City) and hold City and their respective elected and appointed officers, officials, employees, agents, and representatives (collectively, the "**Indemnitees**") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") arising directly or indirectly, in whole or in part, as a result of or in connection with Owner's construction, management, or operation of the Property and the Development or any failure to perform any obligation as and when required by this Agreement. Owner's indemnification obligations under this Section 10 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of Indemnitees. It is further agreed that City does not and shall not waive any rights against Owner that it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Owner, of any of the insurance policies described in this Agreement or the Loan Agreement.

The provisions of this Section 10 shall survive the expiration or earlier termination of this Agreement.

11. Miscellaneous.

11.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

11.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Owner of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

11.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt;

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

(iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

City: City of Dublin
100 Civic Plaza
Dublin, CA 94568
Attention: City Manager

Owner: Sunflower Grace, L.P.
c/o Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA 94703
Attention: Chief Executive Officer

With a copy to Owner's investor limited partner:

_____
_____
_____

11.4 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

11.5 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

11.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City's City Manager or by any person who shall have been designated by the City Manager, without further approval by the City Council.

11.7 Non-Liability of City Officials, Officers, Directors, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Owner or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Owner or its successor or for any obligation of City under this

Agreement. No director, officer, employee or agent of the Owner shall be personally liable to the City or any successor in interest, in the event of any default or breach by the Owner, or for any amount of money which may become due to the City or its successor or for any obligation of the Owner under this Agreement.

11.8 Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.

11.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

11.10 Governing Law. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

11.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

11.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

11.13 Entire Agreement. This Agreement, together with the Loan Agreement, the Note and the Deed of Trust contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto.

11.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGES.

Docusign Envelope ID: 145F7FB3-AE51-4E6E-BFA9-5F52397FFD75

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

CITY

City of Dublin, a municipal corporation

By: _____
City Manager

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

SIGNATURES MUST BE NOTARIZED

Docusign Envelope ID: 145F7FB3-AE51-4E6E-BFA9-5F52397FFD75

DEVELOPER

Sunflower Grace, L.P.,
a California limited partnership

By: Sunflower Grace MGP LLC,
a California limited liability company,
its Managing General Partner

By: Satellite Affordable Housing Associates,
a California nonprofit public benefit corporation,
its member/manager

By: Signed by: 383354C32FC0425...
Susan Friedland,
Chief Executive Officer

By: Sunflower Grace AGP LLC,
a California limited liability company,
its Administrative General Partner

By: Sunflower Hill,
a California nonprofit public benefit corporation,
its member/manager

By: Signed by: Janeen Rubino-Brumm 064FF6CBCD684CC...
Janeen Rubino-Brumm
President – Board of Directors

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)
)
County of _____)

On _____, before me, _____, Notary Public,
(here insert name and title of the officer)
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.

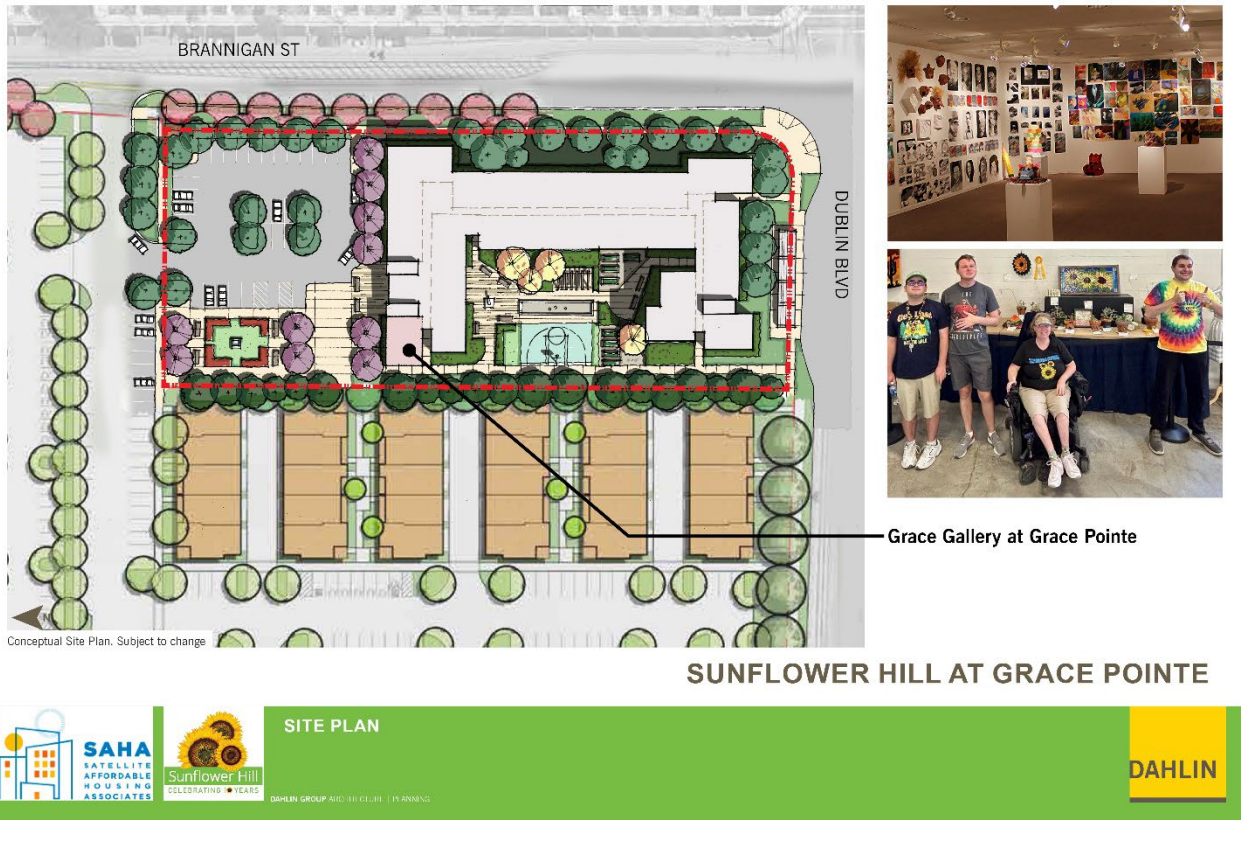
Signature_____

(seal)

Exhibit A

PROPERTY

Real property in the City of Dublin, County of Alameda, State of California, described as follows:



The legal description of the property will be provided to the City after the site has been donated and the legal description of the property has been finalized.

EXHIBIT H
CERTIFICATE OF COMPLETION
Attached

EXHIBIT H

CERTIFICATE OF COMPLETION

Recording requested by
and when recorded mail to:

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

CERTIFICATE OF COMPLETION

This Certificate of Completion (this **Certificate**") is made by the City of Dublin, a California municipal corporation ("**City**"), effective as of _____, 202__.

RECITALS

A. City and Sunflower Grace, L.P., a California limited partnership ("**Owner**"), entered into that certain Affordable Housing Loan Agreement dated as of _____, 202___("**Loan Agreement**") concerning the development of a sixty (60) unit affordable housing development (the "**Development**") on certain real property located in the City of Dublin, California and more particularly described in Exhibit A attached hereto (the "**Property**"). Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Loan Agreement.

B. Pursuant to Section 3.13 of the Loan Agreement, the City is required to furnish the Owner or its successors with a Certificate of Completion upon completion of construction and development of the Development in accordance with the Loan Agreement.

C. The City has determined that the construction and development of the Development has been satisfactorily completed in accordance with the Loan Agreement.

NOW, THEREFORE, the City hereby certifies as follows:

1. Construction and development of the Development has been satisfactorily completed in conformance with the Loan Agreement.

2. All use, maintenance and nondiscrimination covenants contained in the Loan Agreement and the City Regulatory Agreement recorded in the Official Records of Alameda County on _____, 202__as Instrument No._____in connection therewith shall remain in effect and enforceable in accordance therewith. This Certificate does not constitute evidence of Owner's compliance with those covenants in the Loan Agreement or City Regulatory Agreement that survive the issuance of this Certificate.

3. This Certificate does not constitute evidence of compliance with or satisfaction of any obligation of Owner to any holder of a deed of trust securing money loaned to finance the Improvements or any part thereof (except City) and does not constitute a notice of completion under the California Civil Code.

4. Nothing contained in this instrument shall modify any provisions of the Loan Agreement, City Regulatory Agreement or any other document executed in connection therewith.

IN WITNESS WHEREOF, City has executed and issued this Certificate of Completion as of the date first written above.

THE CITY OF DUBLIN

By: _____

Name: _____
[Title]

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

SIGNATURE 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)
)
County of _____)

On _____, before me, _____, Notary Public,
(here insert name and title of the officer)
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.

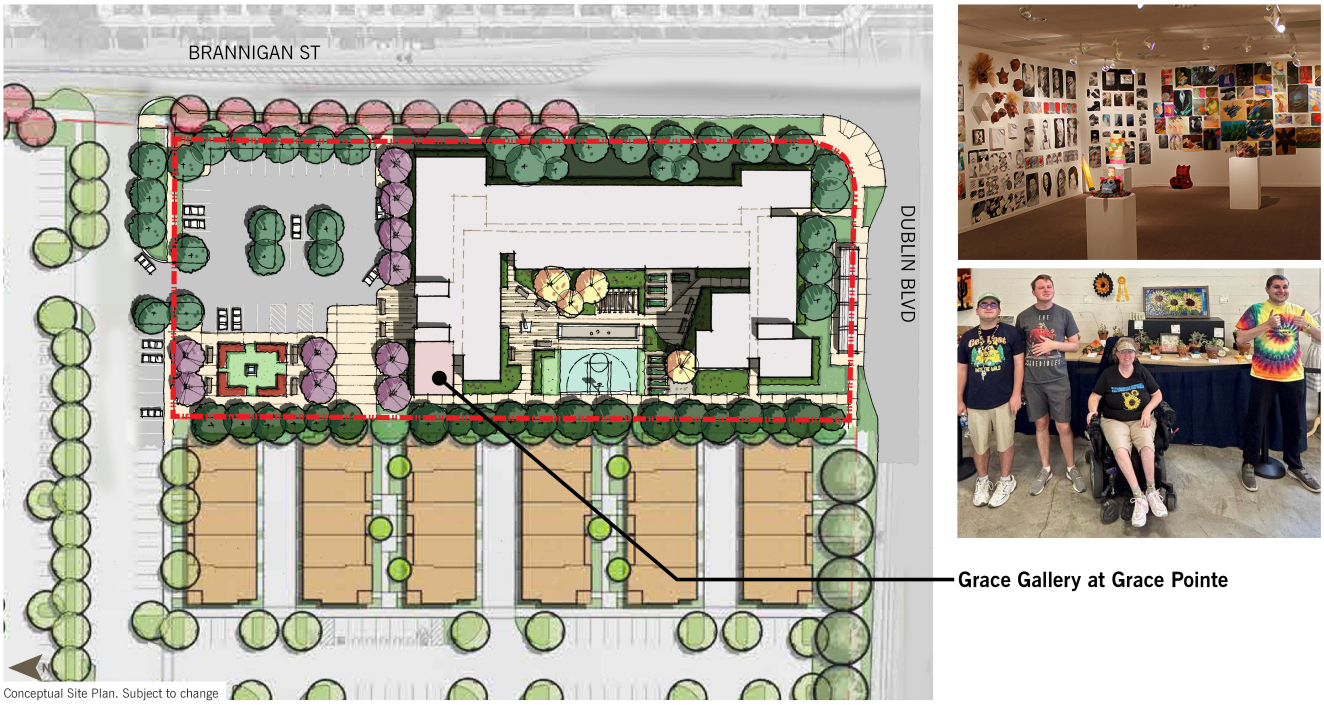
Signature_____

(seal)

Exhibit A

PROPERTY

Real property in the City of Dublin, County of Alameda, State of California, described as follows:



The legal description of the property will be provided to the City after the site has been donated and the legal description of the property has been finalized.

Docusign Envelope ID: 089E00CA-8C5D-49E5-98D6-4C6DB354174D

EXHIBIT I
ASSIGNMENT OF ARCHITECTURAL AND ENGINEERING PLANS
Attached

Docusign Envelope ID: 089E00CA-8C5D-49E5-98D6-4C6DB354174D

ASSIGNMENT OF ARCHITECTURAL AND ENGINEERING PLANS

Sunflower Grace, L.P., a California limited partnership ("Borrower") hereby assigns and transfers all right, title and interest it may have or acquire (the "Assignment") in and to (i) those certain drawings, plans, specifications, architectural renderings and other documents prepared by _____ pursuant to that certain _____ between Borrower and _____, dated as of _____ (the "Architectural Plans") and; (ii) those certain drawings, plans, specifications, architectural renderings and other documents prepared by _____ pursuant to that certain _____ between Borrower and _____, dated as of _____ (the "Engineering Plans"), to **THE CITY OF DUBLIN** ("Lender"), in further consideration for the Affordable Housing Loan Agreement entered into between Borrower and Lender, of even date herewith;

PROVIDED THAT, this Assignment shall become effective upon occurrence of an Event of Default under the Affordable Housing Loan Agreement, Deed of Trust, Promissory Note or any related documents and notice thereof by Lender to Borrower. Failure of Lender to exercise its rights pursuant to this Assignment in the event of occurrence of an Event of Default shall not constitute a waiver of such rights.

DATED this ___ day of _____, 2024.

Borrower:

SUNFLOWER GRACE, L.P., a California limited partnership

By: Sunflower Grace MGP LLC,
a California limited liability company,
its Managing General Partner

By: Satellite Affordable Housing Associates,
a California nonprofit public benefit corporation,
its member/manager

Signed by:
By: _____
383354C32FC6425...
Susan Friedland,
Chief Executive Officer

By: Sunflower Grace AGP LLC,
a California limited liability company,
its Administrative General Partner

By: Sunflower Hill,
a California nonprofit public benefit corporation,
its member/manager

Signed by:
By: Janeen Rubino-Brumm
064FF6CBCD684CC...
Janeen Rubino-Brumm
President-Board of Directors

Docusign Envelope ID: 089E00CA-8C5D-49E5-98D6-4C6DB354174D

ENGINEER CONSENT

The above Assignment is consented to by the undersigned, which further agrees that any and all plans and renderings prepared or furnished by it may be used by Lender.

DATED this ___ day of _____, 2024.

Contractor: _____

By: _____
Name: _____
Its: _____

ARCHITECT CONSENT

The above Assignment is consented to by the undersigned, which further agrees that any and all plans and architectural renderings prepared or furnished by it may be used by Lender.

DATED this __ day of _____, 2024.

Architect: _____

By: _____
Name: _____
Its: _____

EXHIBIT J
CITY INSURANCE REQUIREMENTS
Attached

CITY INSURANCE REQUIREMENTS

Prior to the closing of the City Affordable Housing Loan, and throughout the term of this Agreement thereafter, Developer shall obtain and maintain, at Developer's expense, the following policies of insurance.

A. Property Insurance. Insurance for the risks of direct physical loss, with minimum coverage being the perils insured under the standard Causes of Loss - Special form (ISO Form CP 10 30) or its equivalent, covering all improvements, all fixtures, equipment and personal property, located on or in, or constituting a part of, the Property ("Improvements"), in an amount equal to one hundred percent (100%) of the full replacement cost of all such property.

1. The insurance shall:

(a) Cover explosion of steam and pressure boilers and similar apparatus, if any, located on the Property,

(b) Cover floods if the Property is in a Special Hazard Area, as determined by the Federal Emergency Management City or as shown on a National Flood Insurance Program flood map;

2. The insurance required hereunder shall be in amounts sufficient to prevent Developer from becoming a co-insurer under the terms of the applicable policies, with not more than a Twenty-Five Thousand Dollars ($25,000) deductible for perils excluding water losses, and not more than a Fifty Thousand Dollars ($50,000) deductible for water losses (or such higher deductible approved by the City, which approval shall not be unreasonably withheld), from the loss payable for any casualty.

3. The policies of insurance carried in accordance with this Paragraph A shall contain a "replacement cost endorsement" and an "increased cost of construction endorsement."

B. Liability Insurance. Commercial general liability insurance on an "occurrence basis" covering all claims with respect to injury or damage to persons or property occurring on, in or about the Property and the Improvements. The limits of liability under this Paragraph B shall be not less than Two Million Dollars ($2,000,000) general aggregate limit, with a per occurrence limit of One Million Dollars ($1,000,000), with a deductible no greater than Twenty-Five Thousand Dollars ($25,000) or such higher deductible as may be approved by City, which approval shall not be unreasonably withheld. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. No endorsement shall be attached limiting the coverage. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

1. The insurance shall also include coverage for:

(a) Liability for bodily injury or property damage arising out of the use, by or on behalf of Developer, of any owned, non-owned, leased or hired automotive equipment in the conduct of any and all operations conducted in connection with the Development or the Property. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including without limitation, blanket contractual liability and the use of owned and non-owned automobiles. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

(b) Premises and operations including, without limitation, bodily injury, personal injury, death or property damage occurring upon, in or about the Property or the Improvements on any elevators or any escalators therein and on, in or about the adjoining sidewalks, streets and passageways;

(c) Environmental liability and indemnification of City therefor;

(d) Broad form property damage liability;

(e) Additional insured and primary insured endorsements protecting the City and its respective elected and appointed officials, officers, employees and agents;

(f) Personal injury endorsement.

C. Worker's Compensation Insurance. Worker's compensation insurance, in the amount required under then applicable state law, with limits of not less than One Million Dollars per accident ($1,000,000), covering Developer's employees, if any, at work in or upon the Property or engaged in services or operations in connection with the Development or the Property. Developer shall require that any contract entered into by Developer with regard to work to be undertaken on the Property include a contractual undertaking by the contractor to provide worker's compensation insurance for its employees in compliance with applicable state law. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the

entity for all work performed by the Developer, its employees, agents, contractors and subcontractors.

D. Course of Construction Insurance. Course of construction insurance in the same amount as required in Paragraph A above for property insurance, covering all construction activities on the Property.

E. General Insurance Provisions.

1. All policies of insurance provided for in this Exhibit shall be provided under valid and enforceable policies, in such forms and amounts as hereinbefore specified, issued by insurers licensed to do business in the State of California (or approved to do business in California and listed on the California Department of Insurance list of Eligible Surplus Lines Insurers or successor listing) and having a rating of A-VII or better in Best Insurance Guide or, if Best Insurance Guide is no longer in existence, a comparable rating from a comparable rating service. Prior to closing of the City Predevelopment Loan and City Construction/Permanent Loan, and thereafter, not less than thirty (30) days prior to the expiration date of each policy furnished pursuant to this Exhibit, Developer shall deliver to City certificates evidencing the insurance required to be carried by Developer under this Exhibit, and any additional insured endorsements, waivers of subrogation endorsements, and primary insurance endorsements as required by this Exhibit. If requested by City, Developer shall deliver within ten (10) days following such request, certified, complete copies of the insurance policies required hereunder. Insurance policies to be provided hereunder shall meet the following requirements:

2. Each policy of insurance obtained pursuant to this Agreement, other than worker's compensation insurance, shall contain endorsements which provide:

(a) A waiver by the insurer of the right of subrogation against City, Developer or any tenant of the Development for negligence of any such person,

(b) A statement that the insurance shall not be invalidated should any insured waive in writing prior to the loss any or all right of recovery against any party for loss accruing to the property described in the insurance policy, and

(c) A provision that no act or omission of Developer which would otherwise result in forfeiture or reduction of the insurance therein provided shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained.

(d) By endorsements, City, and its elected and appointed officials, officers, employees and agents shall be named as additional insured under the liability insurance required to be maintained by Developer

hereunder. City shall be named as loss payee on the property insurance policies required to be maintained hereunder.

3. Each policy required hereunder shall include a Notice of Cancellation or Change in Coverage Endorsement which shall provide that such policy shall not be cancelled or materially changed without at least thirty (30) days' prior written notice by registered or certified mail to City.

4. All insurance policies shall provide that there shall be no exclusion from coverage for cross liability among the listed insureds.

5. Any certificate of insurance applicable to course of construction insurance to be maintained shall be deposited with City prior to closing of the City Construction/Permanent Loan.

6. Each policy shall contain an endorsement that provides that the insurance applies separately to each insured that is seeking coverage or against whom a claim is made, except with respect to the limits of liability

7. Each policy shall be written as a primary policy not contributing with and not in excess of coverage that City may carry.

8. Each policy shall expressly provide that City shall not be required to give notice of accidents or claims and that City shall have no liability for premiums.

9. No policy required by this Exhibit shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

10. Developer shall include all contractors and subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each contractor and subcontractor. All coverages for contractors and subcontractors shall be subject to all of the requirements stated herein.

F. Blanket Policies. Any insurance provided for in this Exhibit may be placed by a policy or policies of blanket insurance; provided, however, that such policy or policies provide that the amount of the total insurance allocated to the Property and the Development shall be such as to furnish protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects any such policy or policies shall comply with the other provisions of this Agreement

G. Waiver of Subrogation. To the extent permitted by law and the policies of insurance required to be maintained hereunder, and without affecting such insurance coverage, City and Developer each waive any right to recover against the other:

1. Damages for injury or death of persons,

2. Damage to property,

3. Damage to the Property or the Improvements or any part thereof, or

4. Claims arising by reason of any of the foregoing, to the extent that such damages and/or claims are covered (and only to the extent of such coverage) by insurance actually carried by either City or Developer.

This provision is intended to restrict each party (as permitted by law) to recover against insurance carriers to the extent of such coverage, and waive fully, and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier.

H. Compliance with Policy Requirements. Developer shall observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Property, and Developer shall so perform and satisfy the requirements of the companies writing such policies that at all times companies of good standing shall be willing to write or to continue such insurance.

I. Remedies. In addition to any other remedies City may have if Developer fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Developer's breach:

(i) Obtain such insurance and Developer shall then be required to pay to City the amount of the premiums for such insurance; and/or

(ii) Obtain such insurance and add the cost of the premiums for such insurance to the balance of the City Affordable Housing Loan.

CITY OF DUBLIN
FISCAL YEAR 2024-25
BUDGET CHANGE FORM

Budget Change Reference #: _____

City Council's Approval Required

From Un-Appropriated Reserves X

Budget Transfer Between Funds _____

From Designated Reserves _____

Other _____

DECREASE BUDGET AMOUNT		INCREASE BUDGET AMOUNT	
Account	**Amount**	**Account**	**Amount**
		Affordable Housing Fund - Affordable Housing - Housing & Development Loan 29018100.66102	$5,000,000

REASON FOR BUDGET CHANGE

The Staff Report for November 5, 2024 includes an Affordable Housing Loan for the Sunflower Hill at Grace Pointe Project, requiring a budget adjustment for this fund in the amount of $5 million. There is sufficient fund balance to accommodate this budget change.

As Presented at the City Council Meeting **11/5/2024**

************Finance Use Only************

Posted By: _____ Date: _____

DUBLIN
CALIFORNIA

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Agreement with Precision Emprise LLC for Sidewalk Inspection and Repair Services
Prepared by: Julius Pickney, Management Analyst II

EXECUTIVE SUMMARY:

The City Council will consider approving an agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services.

FINANCIAL IMPACT:

The proposed agreement will be for a not-to-exceed amount of $850,000. These costs will be charged to the Public Works Department, based on the work being done and in accordance with the adopted annual operating budget, Capital Improvement Program project budgets, and/or developer deposit accounts.

DESCRIPTION:

The City of Dublin has approximately 130 centerline miles of public streets with accompanying sidewalks and curb ramps. City facilities and parks also include concrete pathways. Over time, sidewalks and pathways can become damaged or displaced, creating barriers to accessibility. Common issues include uplift caused by the growth of nearby trees and settlement due to underlying soil failure. In severe cases, this damage can lead to multiple cracks, resulting in the complete failure of the concrete walkway. When this occurs, the removal and replacement of the affected section is necessary.

In cases of less extensive damage, concrete walkways may develop vertical offsets at joints, creating an uneven surface for pedestrians or cyclists. Larger offsets can also pose a tripping

hazard. When the offset is less than two inches, the City has used a contractor to repair the surface by saw-cutting the concrete at an angle to eliminate the unevenness. These repairs result in a surface that meets ADA standards and costs eight to 10 times less than the cost of full walkway removal and replacement.

On September 17, 2019, the City Council adopted Resolution No. 93-19 approving an agreement with Precision Emprise LLC doing business as Precision Concrete Cutting (PCC) for Sidewalk Inspection and Repair Services. The four-year, $1 million agreement resulted in PCC inspecting over 176 miles of concrete walkways and repairing nearly 12,000 uneven locations. All locations repaired by saw-cutting, as well locations that required more extensive repair, were photographed and geo-tagged with coordinates. This data was integrated into the City's Geographic Information System for accurate tracking and management. A map of the sidewalks that have been inspected and repaired by PCC is included as Attachment 3 to this report.

Staff recommends continuing the program of inspecting City sidewalks and walkways and repairing offsets less than two inches by saw-cutting the concrete. There are approximately 77 miles of concrete walkways and several parks and facilities still to be inspected and repaired. After that is complete, Staff recommends the inspection program continue annually with as-needed repairs completed when the inspections warrant such repairs. It is important to continually evaluate concrete walkways because conditions change over time due to factors like tree growth, soil movement, and general wear and tear. Typically, after the initial inspection and repair of all City walkways is complete, subsequent inspections result in fewer offsets to repair and therefore the process is less costly and less time consuming.

Staff recommends entering into a new agreement with PCC to complete the remaining inspection and repair and then reinspection of areas previously inspected and repaired. The proposed contract would have a not-to-exceed amount of $850,000 with a term that extends until June 30, 2029. The agreement includes per-mile costs for concrete walkway inspection and reporting and a cost for each repair. Staff estimates that the remaining walkways, facilities, and parks can be inspected and offsets repaired by July 2026. After this, re-inspections will commence, starting with the walkways that were the first inspected under the former agreement.

Section 2.36.100(B)(9) of the Dublin Municipal Code allows for exceptions to the typical public bidding process when the City can procure services from a competitive bid process administered by another public agency. On November 21, 2017, the City Council adopted Resolution No. 143-17 authoring the City to become a member of the National Purchasing Cooperative, BuyBoard. This cooperative was formed by government entities to streamline the procurement process for municipalities by providing access to vendors that were selected through a competitive bidding process. PCC has an active agreement with the National Purchasing Cooperative, BuyBoard (Attachment 4). Staff was pleased with the quality and value of services provided by PCC under the former agreement and recommends continuing the program with PCC, utilizing the competitive bid process administered by BuyBoard.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Resolution Approving an Agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services
2) Exhibit A to the Resolution – Contractor Services Agreement with Precision Emprise LLC DBA Precision Concrete Cutting for Sidewalk Inspection and Repair Services
3) Map of Sidewalk Inspection and Repair Status
4) BuyBoard Contract with Precision Concrete Cutting, 657-21

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

APPROVING AN AGREEMENT WITH PRECISION EMPRISE LLC DBA PRECISION CONCRETE CUTTING FOR SIDEWALK INSPECTION AND REPAIR SERVICES

WHEREAS, the City utilizes contract services to inspect and repair sidewalks throughout the City; and

WHEREAS, the City of Dublin wishes to enter into a Contractor Services Agreement with Precision Emprise LLC DBA Precision Concrete Cutting for sidewalk inspection and repair services in an amount not-to-exceed $850,000 to June 30, 2029; and

WHEREAS, City Council approval is required for purchases of $45,000 or more and such purchases are required to comply with the competitive bidding process as described in the Dublin Municipal Code (DMC). DMC Section 2.36.100(B)(9) allows for exceptions to the typical public bidding process when the City is able to procure items from a competitive bid process administered by another public agency; and

WHEREAS, on November 21, 2017, the City of Dublin City Council adopted Resolution No. 143-17 authorizing the City of Dublin to become a member of the National Purchasing Cooperative, BuyBoard, a purchasing cooperative which meets the DMC provisions for a publicly bid agreement; and

WHEREAS, Precision Concrete Cutting has a valid contract with BuyBoard, for sidewalk inspection and repair services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin does hereby approve the Agreement with Precision Emprise LLC DBA Precision Concrete Cutting attached hereto as **Exhibit A** to this Resolution.

BE IT FURTHER RESOLVED that the City Manager, or designee, is authorized to execute **Exhibit A** and make any necessary, non-substantive changes to carry out the intent of this Resolution.

{Signatures on the following page}

PASSED, APPROVED AND ADOPTED this 5th day of November 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

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**CONTRACTOR SERVICES AGREEMENT BETWEEN
THE CITY OF DUBLIN AND
PRECISION EMPRISE LLC DBA PRECISION CONCRETE CUTTING
FOR
SIDEWALK INSPECTION AND REPAIR SERVICES**

THIS AGREEMENT for sidewalk inspection and repair services is made by and between the City of Dublin ("City") and Precision Emprise LLC DBA Precision Concrete Cutting ("Contractor") (together sometimes referred to as the "Parties") as of November 5, 2024 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2029, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Contractor to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8. Notwithstanding the foregoing this Agreement may be extended on a month-to-month basis for up to 6 months upon the written consent of the Contractor and the City Manager, provided that: a) sufficient funds have been appropriated for such purchase, b) the price charged by the Contractor for the provision of the serves described in Exhibit A does not increase. None of the foregoing shall affect the City's right to terminate the Agreement as provided for in Section 8.

1.2 Standard of Performance. Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged.

1.3 Assignment of Personnel. Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Contractor's obligations hereunder.

1.5 Public Works Contractor Registration. Because the services described in Exhibit A include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions of the California Labor Code applicable to public works.

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1.6 **Public Works Contractor Registration**. Contractor agrees, in accordance with Section 1771.1 of the California Labor Code, that Contractor or any subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. 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 California Labor Code section 1725.5. Contractor agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Section 2. COMPENSATION. City hereby agrees to pay Contractor a sum not to exceed $850,000, notwithstanding any contrary indications that may be contained in Contractor's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict regarding the amount of compensation between this Agreement and Consultant's proposal, the Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Contractor shall not bill City for duplicate services performed by more than one person.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. No individual performing work under this Agreement shall bill more than 2,000 hours in a fiscal year unless approved, in writing, by the City Manager or his/her designee. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;

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- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;

- A copy of the applicable time entries or time sheets shall be submitted showing the following:
    - Daily logs of total hours worked by each individual performing work under this Agreement
    - Hours must be logged in increments of tenths of an hour or quarter hour
    - If this Agreement covers multiple projects, all hours must also be logged by project assignment
    - A brief description of the work, and each reimbursable expense

- The total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing services hereunder;

- The Contractor's signature;

- Contractor shall give separate notice to the City when the total number of hours worked by Contractor and any individual employee, agent, or subcontractor of Contractor reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Contractor and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Contractor and City, if applicable.

2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 **Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

2.4 **Total Payment.** City shall pay for the services to be rendered by Contractor pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

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2.5 **Hourly Fees.** Fees for work performed by Contractor on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit A.

2.6 **Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit A. Expenses not listed in Exhibit A are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

2.7 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.8 **Payment upon Termination.** In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.9 **Authorization to Perform Services.** The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

2.10 **Liquidated Damages.** Failure of Contractor to respond to problems referred to it by City within the time limits established in Subsection 1.2 of this Agreement shall result in liquidated damages as set forth in Exhibit A.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Contractor only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein. Contractor shall make a written request to City to use facilities or equipment not otherwise listed herein.

3.1 **Safety Requirements.** In accordance with generally accepted construction practices and state law, Contractor shall be solely and completely responsible for conditions on the jobsite, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

Contractor shall take all necessary precautions and provide all necessary safeguards to prevent personal injury and property damage. Contractor shall provide protection for all persons including, but not limited to, its employees and employees of its subcontractors; members of the public; and employees, agents, and representatives of the City and regulatory agencies that may be on or about the work.

The services of the City in conducting review and inspection of Contractor's performance is not intended to include review of the adequacy of Contractor's work methods, equipment, bracing or scaffolding, or safety measures, in, on, or near any Contractor jobsite.

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All work and materials shall be in strict accordance with all applicable state, city, county, and federal rules, regulations and codes, with specific attention to the United States Department of Labor Occupational Health and Safety Administration (OSHA) requirements. Contractor shall be solely responsible for compliance with all city, county, and state explosive transport, storage, and blasting requirements and for any damages caused by such operations.

Contractor is hereby informed that work on City property could be hazardous. Contractor shall carefully instruct all personnel working on City property that all conditions of the property are potentially hazardous work areas as to potential dangers and shall provide such necessary safety equipment and instructions as are necessary to prevent injury to personnel and damage to property. Special care shall be exercised relative to work underground.

In addition to complying with all other safety regulations, Contractor shall abide by any and all other City requirements contained in any specifications, special conditions or manuals, which shall be made available by City upon request.

Contractor shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards, and fire prevention and fire-fighting equipment and shall take such other action as is required to fulfill its obligations under this section. It is the intent of the City to provide a safe working environment under normal conditions. CONTRACTOR IS ADVISED THAT CITY'S OPERATIONS AND PROPERTY ARE INHERENTLY HAZARDOUS BECAUSE OF CONDITIONS SUCH AS CONFINED SPACES, POTENTIALLY EXPLOSIVE ATMOSPHERES, AND POSSIBLE EXPOSURE TO PATHOGENS.

Contractor shall maintain all portions of the jobsite in a neat, clean, and sanitary condition at all times. If required by the City, toilets shall be furnished by Contractor where needed for use of its employees and their use shall be strictly enforced. Contractor shall not use the City's existing sanitary facilities, unless previously authorized by the City.

Contractor shall keep adequate first aid facilities and supplies available and instruction in first aid for its employees shall be given.

City reserves the right to require that Contractor bring onto the project or engage the services of a licensed safety engineer at any time during the term of this Agreement. If Contractor does not have a licensed safety engineer on staff, then City may require that Contractor engage a subcontractor or subconsultant as the project's safety engineer. Contractor shall bear all costs in connection with meeting the requirements of this section.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Contractor, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives,

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employees, and subcontractors. Consistent with the following provisions, Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Contractor shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than $1,000,000 per accident. In the alternative, Contractor may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Contractor shall submit the following:

a. Certificate of Workers' Compensation Insurance in the amounts specified in the section; and

b. Waiver of Subrogation Endorsement as required by the section.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General Requirements. Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than $2,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than $2,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required

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occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including without limitation, blanket contractual liability and the use of owned and non-owned automobiles.

4.2.2 **Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor.

c. Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Contractor agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

d. For any claims related to this Agreement or the work hereunder, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

4.2.4 **Submittal Requirements.** To comply with Subsection 4.2, Contractor shall submit the following:

a. Certificate of Liability Insurance in the amounts specified in the section;

b. Additional Insured Endorsement as required by the section;

c. Waiver of Subrogation Endorsement as required by the section; and

d. Primary Insurance Endorsement as required by the section.

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4.3 All Policies Requirements.

4.3.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.3.2 Verification of Coverage. Prior to beginning any work under this Agreement, Contractor shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Contractor by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Contractor beginning work, it shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.3.3 Deductibles and Self-Insured Retentions. Contractor shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.3.4 Wasting Policies. No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.3.5 Endorsement Requirements. Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

4.3.6 Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4 Remedies. In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

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- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or

- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES. Contractor shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

The Contractor's obligation to defend and indemnify shall not be excused because of the Contractor's inability to evaluate Liability or because the Contractor evaluates Liability and determines that the Contractor is not liable to the claimant. The Contractor must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Contractor fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Contractor under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Contractor accepts or rejects the tender of defense, whichever occurs first.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Contractor to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONTRACTOR.

6.1 Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. This Agreement shall not be construed as an agreement for employment. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Contractor further acknowledges that Contractor performs Services outside the usual course of the City's business; and is

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customarily engaged in an independently established trade, occupation, or business of the same nature as the Contractor performs for the City, and has the option to perform such work for other entities. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 **Contractor Not an Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

7.5 **Nondiscrimination and Equal Opportunity.** Contractor shall not discriminate, on the basis of a person's race, sex, gender, religion (including religious dress and grooming practices), national origin, ancestry, physical or mental disability, medical condition (including cancer and genetic characteristics), marital status, age, sexual orientation, color, creed, pregnancy, genetic information, gender identity or expression, political affiliation or belief, military/veteran status, or any other classification protected by applicable local, state, or federal laws (each a "Protected Characteristic"), against any employee, applicant

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for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or the City in connection with this Agreement.

8.2 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.

8.3 Amendments. The Parties may amend this Agreement only by a writing signed by all the Parties.

8.4 Assignment and Subcontracting. City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

8.5 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

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8.6 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:

8.6.1 Immediately terminate the Agreement;

8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;

8.6.3 Retain a different contractor to complete the work described in Exhibit A not finished by Contractor; or

8.6.4 Charge Contractor the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.

9.2 **Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds $10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

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10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Contractor hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of the City in the previous 12 months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.,* and, if applicable, will be disqualified from holding public office in the State of California.

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10.7 **Solicitation.** Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.8 **Contract Administration.** This Agreement shall be administered by the City Manager ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.9 **Notices.** Any written notice to Contractor shall be sent to:
Precision Concrete, Cutting
Attn: Joseph Ortega
335 Beach Road
Burlingame, CA 94030

Any written notice to City shall be sent to:

City of Dublin
Att: Public Works Manager
100 Civic Plaza
Dublin, CA 94568

10.10 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A Scope of Services & Compensation Schedule/Reimbursable Expenses

10.11 **Counterparts and Electronic Signatures**. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement. Counterparts delivered and/or signatures executed by City-approved electronic or digital means shall have the same force and effect as the use of a manual signature. Both Parties desire this Agreement to be electronically signed in accordance with applicable federal and California law. Either Party may revoke its agreement to use electronic signatures at any time by giving notice to the other Party.

10.12 **Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars ($1,000,000.00) or more, by Contractor's signature below Contractor certifies that Contractor, and any parent entities, subsidiaries, successors or subunits of Contractor are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

10.13 **Provisions Required For Public Works Contracts Pursuant To California Labor Code Section 1720 Et Seq.**

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A. HOURS OF WORK:

i. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.

ii. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.

iii. The Consultant and its subcontractors shall forfeit as a penalty to the City $25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

B. WAGES:

i. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Consultant and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services described in Exhibit A.

ii. In accordance with California Labor Code Section 1775, the Consultant and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes a penalty for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Consultant or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Consultant or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Consultant or subcontractor to pay the correct rates of prevailing wages. A

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mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Consultant or subcontractor had knowledge of their obligations under the California Labor Code. The Consultant or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Consultant is not liable for any penalties therefore unless the Consultant had knowledge of that failure or unless the Consultant fails to comply with all of the following requirements:

a. The contract executed between the Consultant and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

b. The Consultant shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.

c. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Consultant shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.

d. Prior to making final payment to the subcontractor, the Consultant shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.

iii. In accordance with California Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

a. The information contained in the payroll record is true and correct.

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b. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be submitted directly to the Labor Commission, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

iv. In accordance with California Labor Code Section 1777.5, the Consultant, on behalf of the Consultant and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.

v. In case it becomes necessary for the Consultant or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Consultant or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

SIGNATURES ON FOLLOWING PAGE

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The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF DUBLIN

Colleen Tribby, City Manager

Attest:

Marsha Moore, City Clerk

Approved as to Form:

City Attorney

PRECISION CONCRETE CUTTING

DocuSigned by:
Joseph Ortega
6AB73519AF1F459...

Joseph Ortega, Vice President of Development

1000053728 -

Contractor's DIR Registration Number
(if applicable)

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EXHIBIT A

SCOPE OF SERVICES

The scope of services required to assist the City include but are not limited to condition assessment, reporting, notices, and minor concrete repair/maintenance services on sidewalks throughout the Public Right of Way and City-owned public sidewalks within the designated service areas including, city wide sidewalk infrastructure, city facilities, and parks as listed below. All work shall be done in accordance with Americans with Disabilities Act (ADA) standards.

Contractor agrees to the following terms:

1. Contractor to provide concrete inspection services for designated City-owned public sidewalks to include location of offset, before photos, complete measurements of offset, and photo of repaired offset. This information shall be provided as a report to the City in a format that is compatible with the City's Geographic Information System (GIS) software (Esri Shapefile or Esri GeoDatabase).
2. Contractor to provide the City with a list of shave locations. Contractor to provide minor concrete repair/maintenance services as needed and determined by the Public Works Maintenance Superintendent or their designee.
3. Contractor shall furnish all labor, materials and equipment necessary to complete tasks.
4. Contractor shall remove and dispose of existing temporary ramps at no extra charge.
5. Contractor shall provide dust control by use of high efficiency vacuum attachment secured to the portion of the cutting or shaving machine.
6. Contractor shall collect, remove and dispose of all remove and replace material, cutting or shaving residue at no additional cost.
7. Contractor shall install traffic controls, as required, in compliance with the most recent adopted California Manual on Uniform Traffic Control Devices (CA MUTCD).
8. No work shall commence under this contract without prior written notification from Public Works Maintenance Superintendent, or their designee.
9. Contractor shall adhere to all National Pollutant Discharge Elimination System (NPDES) Stormwater best management practices (BMPs). Refer to the attached "Construction Phase Stormwater BMPs" document for a partial list of BMPs.
10. On-Call response time: Contractor shall mobilize within 48-hours, providing the necessary workforce and equipment, when requested by the City to inspect and repair by concrete cutting the offset or damaged sidewalk. If concrete cutting is not a feasible repair option, Contractor shall provide the City with an inspection report that includes recommended repair methods and associated costs.
11. As requested, Contractor will mail notices to property owners notifying them of their responsibility to repair sidewalks. All Notices will be based on the City of Dublin standard template and approved by the Public Works Maintenance Superintendent, or their designee.
12. As requested, Contractor will print and place door hanger at each property providing notice of a sidewalk that needs removal and replacement at the property owners expense or a sidewalk that has been repaired at no cost as a onetime service by the City’s Contractor.

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City Facilities and Parks:

ALAMO CANAL TRAIL
ALAMO CREEK PARK
BRAY COMMONS
BUTTERFLY KNOLL PARK
CALAVERAS RIDGE REGIONAL TRAIL
CIVIC CENTER
CLOVER & SUNRISE PARKS
DEVANY SQUARE
DOLAN PARK
DON BIDDLE COMMUNITY PARK
DONLON CANYON TRAIL & LOOP
DOUGHERTY HILLS DOG PARK
DOUGHERTY HILLS OPEN SPACE
DUBLIN LIBRARY
DUBLIN SPORTS GROUNDS (DSG)
EMERALD GLEN PARK
FALLON SPORTS PARK
HERITAGE PARK & MUSEUMS
IMAGINE PLAYGROUND AT DSG
IRON HORSE TRAIL
JORDAN RANCH PARK
KOLB PARK
MAPE MEMORIAL PARK
MARTIN CANYON CREEK TRAIL
PASSATEMPO PARK
PIAZZA SORRENTO
POSITANO HILLS PARK
PUBLIC SAFETY COMPLEX
SCHAEFER RANCH PARK
SEAN DIAMOND PARK
SENIOR CENTER
SHANNON COMMUNITY CENTER
SHANNON PARK
STAGECOACH PARK
TASSAJARA CREEK TRAIL
TED FAIRFIELD PARK
THE WAVE
Corporation Yard
Fire Station 16
Fire Station 17
Fire Station 18

Agreement will allow for additional facilities to be added and approved by the Public Works Manager, or their designee. In addition, Public Works Manager, or their designee may approve additional unforeseen, but related, services in addition to those services approved in this Agreement.

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COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

Reimbursable expenses are built into rates as follows:

Service	Cost
ADA Compliant Uneven Sidewalk Repair Services	$54 / Inch Foot (IF)
Sidewalk Asset Management Assessment/Surveying	$300 / Sidewalk Mile
Mailing Notices	$15 per Notice/ Address
Door Hanger Notices	$5,000/ Year

Annual estimated costs are as follows:

Year 1	$250,000
Year 2	$250,000
Year 3	$150,000
Year 4	$100,000
Year 5	$100,000
Total NTE	$850,000

Includes cost for condition assessment services, notices, GIS reporting, and uneven sidewalk repairs.

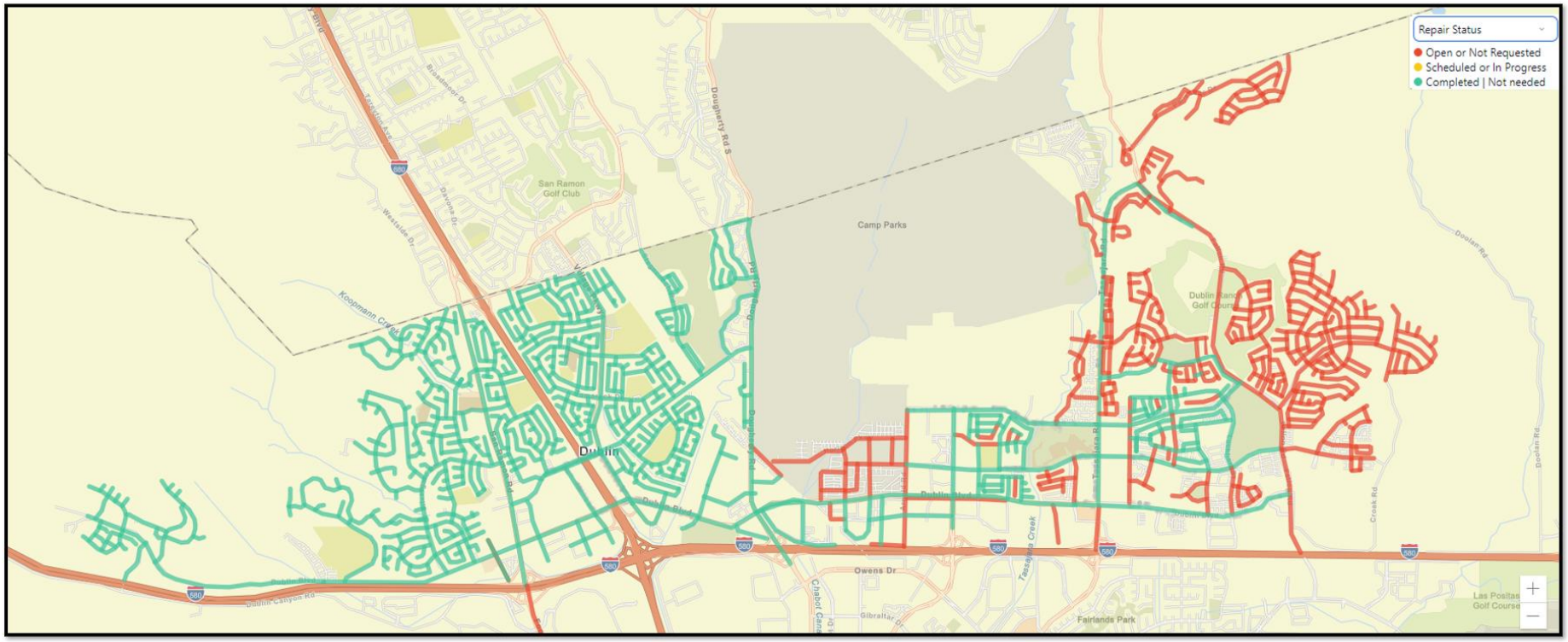
Invoices shall be submitted electronically to: pwinvoices@dublin.ca.gov no more than once monthly and as work is completed. Invoices shall be submitted for services rendered from the first to the last day of each month.

Contractor shall submit to the City any proposed increase to costs no later than 60 days prior to the state of a new Fiscal Year (July 1-June 30). Any changes to cost shall be approved in writing by the Public Works Manager, or their designee. Any such increase shall be calculated based on the Consumer Price Index for All Urban Consumers (CPI-U) and shall not exceed 3% annually.

DUBLIN
CALIFORNIA

City Wide Sidewalk Infrastructure Network

PRECISION CONCRETE CUTTING
Trip Hazard Removal Specialists



Green – Sidewalks Completed

Red – Sidewalks Remaining

12007 Research Boulevard • Austin, Texas 78759-2439 · PH: 800-695-2919 • buyboard.com

PROPOSER'S ACCEPTANCE AND AGREEMENT

Proposal Invitation Name: Building Maintenance, Repair, and Operations Supplies and Equipment

Proposal Due Date/Opening Date and Time: June 17, 2021 at 4:00 PM

Location of Proposal Opening:
Texas Association of School Boards, Inc.
BuyBoard Department
12007 Research Blvd.
Austin, TX 78759

Proposal Invitation Number: 657-21

Anticipated Cooperative Board Meeting Date: October 2021

Contract Term: December 1, 2021 through November 30, 2022 with two possible one-year renewals.

By signature below, the undersigned acknowledges and agrees that you are authorized to submit this Proposal, including making all acknowledgements, consents, and certifications herein, on behalf of Proposer and, to the best of your knowledge, the information provided is true, accurate, and complete.

Precision Concrete Cutting	05/20/21
Name of Proposing Company	Date
3191 N Canyon Road	
Street Address	Signature of Authorized Company Official
Provo, UT 84604	Matthew Haney
City, State, Zip	Printed Name of Authorized Company Official
(801) 373-6060	President
Telephone Number of Authorized Company Official	Position or Title of Authorized Company Official
(801) 373-6088	04-3800739
Fax Number of Authorized Company Official	Federal ID Number

PROPOSAL FORMS PART 1: COMPLIANCE FORMS

INSTRUCTIONS:

Proposer must review and complete all forms in this Proposal Forms Part 1:

- Proposal Acknowledgements
- Felony Conviction Disclosure
- Resident/Nonresident Certification
- Debarment Certification
- Vendor Employment Certification
- No Israel Boycott Certification
- No Excluded Nation or Foreign Terrorist Organization Certification
- Historically Underutilized Business Certification
- Acknowledgement of BuyBoard Technical Requirements
- Construction-Related Goods and Services Affirmation
- Deviation and Compliance
- Vendor Consent for Name Brand Use
- Confidential/Proprietary Information
- EDGAR Vendor Certification
- Compliance Forms Signature Page

An authorized representative of Proposer must initial in the bottom right corner of each page where indicated and complete and sign the Compliance Forms Signature Page. Proposer's failure to fully complete, initial, and sign forms as required may result in your Proposal being rejected as non-responsive.

PROPOSAL ACKNOWLEDGEMENTS

The proposing company ("you" or "your") hereby acknowledges and agrees as follows:

1. You have carefully examined and understand all information and documentation associated with this Proposal Invitation, including the Instructions to Proposers, General Information, General Terms and Conditions, attachments/forms, appendices, item specifications, and line items (collectively "Requirements");
2. By your response ("Proposal") to this Proposal Invitation, you propose to supply the products or services submitted at the pricing quoted in your Proposal and in strict compliance with the Requirements, unless specific deviations or exceptions are noted in the Proposal;
3. By your Proposal, you acknowledge and certify all items set forth in the General Terms and Conditions, Section B.12 (Certifications), including all non-collusion certifications and certifications regarding legal, ethical, and other matters set forth therein.
4. Any and all deviations and exceptions to the Requirements have been noted in your Proposal on the required form and no others will be claimed;

Initial: ABG

5. If the Cooperative accepts any part of your Proposal and awards you a Contract, you will furnish all awarded products or services at the pricing quoted and in strict compliance with the Requirements (unless specific deviations or exceptions are noted on the required form and accepted by the Cooperative), including without limitation the Requirements related to:
   a. conducting business with Cooperative members, including offering pricing to members that is the best you offer compared to similarly situated customers in similar circumstances;
   b. payment of a service fee in the amount specified and as provided for in this Proposal Invitation;
   c. the **possible** award of a piggy-back contract by the National Purchasing Cooperative or nonprofit entity, in which event you will offer the awarded products and services in accordance with the Requirements; and
   d. submitting price sheets or catalogs in the proper format as required by the Cooperative as a prerequisite to activation of your Contract;
6. You have clearly identified on the included form any information in your Proposal that you believe to be confidential or proprietary or that you do not consider to be public information subject to public disclosure under the Texas Public Information Act or similar public information law;
7. The individual submitting this Proposal is duly authorized to enter into the contractual relationship represented by this Proposal Invitation on your behalf and bind you to the Requirements, and such individual (and any individual signing a form or Proposal document) is authorized and has the requisite knowledge to provide the information and make the representations and certifications required in the Requirements;
8. You have carefully reviewed your Proposal, and certify that all information provided is true, complete, and accurate to the best of your knowledge, and you authorize the Cooperative to take such action as it deems appropriate to verify such information; and
9. Any misstatement, falsification, or omission in your Proposal, whenever or however discovered, will be grounds for disqualifying you from consideration for a contract award under this Proposal Invitation, termination of a contract award, or any other remedy or action provided for in the General Terms and Conditions or by law.

FELONY CONVICTION DISCLOSURE

Subsection (a) of Section 44.034 of the Texas Education Code (Notification of Criminal History of Contractor) states: "A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Section 44.034 further states in Subsection (b): "A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Please check (√) one of the following:

☐ My company is a publicly-held corporation. (Advance notice requirement does not apply to publicly-held corporation.)
☒ My company is not owned or operated by anyone who has been convicted of a felony.
☐ My company is owned/operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): _____

Details of Conviction(s): _____

_____

Initial: MBH

RESIDENT/NONRESIDENT CERTIFICATION

Chapter 2252, Subchapter A, of the Texas Government Code establishes certain requirements applicable to proposers who are not Texas residents. Under the statute, a "resident" proposer is a person whose principal place of business is in Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in Texas. A "nonresident" proposer is a person who is not a Texas resident. Please indicate the status of your company as a "resident" proposer or a "nonresident" proposer under these definitions.

Please check (√) one of the following:

☐ I certify that my company is a **Resident Proposer.**
☒ I certify that my company is a **Nonresident Proposer.**

If your company is a Nonresident Proposer, you must provide the following information for your resident state (the state in which your company's principal place of business is located):

Company Name	Address	
Precision Concrete Cutting	3191 N Canyon Rd	
City	**State**	**Zip Code**
Provo	UT	84604

A. Does your resident state require a proposer whose principal place of business is in Texas to under-price proposers whose resident state is the same as yours by a prescribed amount or percentage to receive a comparable contract?
☐ Yes ☒ No

B. What is the prescribed amount or percentage? $_____ or _____%

DEBARMENT CERTIFICATION

By signature on the Compliance Forms Signature Page, I certify that neither my company nor an owner or principal of my company has been debarred, suspended or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension," as described in the Federal Register and Rules and Regulations. Neither my company nor an owner or principal of my company is currently listed on the government-wide exclusions in SAM, debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority. My company agrees to immediately notify the Cooperative and all Cooperative members with pending purchases or seeking to purchase from my company if my company or an owner or principal is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority.

VENDOR EMPLOYMENT CERTIFICATION

Section 44.031(b) of the Texas Education Code establishes certain criteria that a school district must consider when determining to whom to award a contract. Among the criteria for certain contracts is whether the vendor or the vendor's ultimate parent or majority owner (i) has its principal place of business in Texas; or (ii) employs at least 500 people in Texas.

If neither your company nor the ultimate parent company or majority owner has its principal place of business in Texas, does your company, ultimate parent company, or majority owner employ at least 500 people in Texas?

Please check (√) one of the following:

☐ Yes ☒ No

Initial: MBK

NO ISRAEL BOYCOTT CERTIFICATION

A Texas governmental entity may not enter into a contract with a value of $100,000 or more that is to be paid wholly or partly from public funds with a company (excluding a sole proprietorship) that has 10 or more full-time employees for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. (TEX. GOV'T CODE Ch. 2270). Accordingly, this certification form is included to the extent required by law.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. TEX. GOV'T CODE §808.001(1).

By signature on the Compliance Forms Signature Page, to the extent applicable, I certify and verify that Vendor does not boycott Israel and will not boycott Israel during the term of any contract awarded under this Proposal Invitation, that this certification is true, complete and accurate, and that I am authorized by my company to make this certification.

NO EXCLUDED NATION OR FOREIGN TERRORIST ORGANIZATION CERTIFICATION

Chapter 2252 of the Texas Government Code provides that a Texas governmental entity may not enter into a contract with a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

By signature on the Compliance Forms Signature Page, I certify and verify that Vendor is not on the Texas Comptroller's list identified above; that this certification is true, complete and accurate; and that I am authorized by my company to make this certification.

HISTORICALLY UNDERUTILIZED BUSINESS CERTIFICATION

A Proposer that has been certified as a Historically Underutilized Business (also known as a Minority/Women Business Enterprise or "MWBE" and all referred to in this form as a "HUB") is encouraged to indicate its HUB certification status when responding to this Proposal Invitation. The BuyBoard website will indicate HUB certifications for awarded Vendors that properly indicate and document their HUB certification on this form. Please check (√) all that apply:

☐ I certify that my company has been certified as a HUB in the following categories:

- ☐ **Minority Owned Business**
- ☐ **Women Owned Business**
- ☐ **Service-Disabled Veteran Owned Business (veteran defined by 38 U.S.C. §101(2), who has a service-connected disability as defined by 38 U.S.C. § 101(16), and who has a disability rating of 20% or more as determined by the U. S. Department of Veterans Affairs or Department of Defense)**

Certification Number: _____

Name of Certifying Agency: _____

☒ My company has **NOT** been certified as a HUB.

Initial: NB#

ACKNOWLEDGEMENT OF BUYBOARD TECHNICAL REQUIREMENTS

Vendor shall review the BuyBoard Technical Requirements included in this Proposal Invitation. By signature on the Compliance Forms Signature Page, the undersigned affirms that Proposer has obtained a copy of the BuyBoard Technical Requirements, has read and understands the requirements, and certifies that Vendor is able to meet and will comply with those requirements except as follows: *[List and explain BuyBoard Technical Requirements, if any, to which your company **cannot** or will **not** comply.]*

Note: In accordance with the General Terms and Conditions of the Contract, to the extent Vendor is awarded a Contract under this Proposal Invitation but is unable or unwilling to meet the applicable BuyBoard Technical Requirements, the information available on the BuyBoard for Vendor's awarded products or services may be limited, potentially placing Vendor at a disadvantage and impacting the ability of Cooperative members to search, find, review, and purchase Vendor's awarded products and services on the BuyBoard website. Further, to the extent Vendor has acknowledged ability to meet and comply with the BuyBoard Technical Requirements, any subsequent failure or refusal by Vendor to promptly provide information upon request to the Cooperative administrator in accordance with those technical requirements may be deemed an event of default under the Contract.

CONSTRUCTION-RELATED GOODS AND SERVICES AFFIRMATION

The Cooperative issued the BuyBoard Procurement and Construction-Related Goods and Services Advisory for Texas Members ("Advisory"), which provides information specifically relevant to the procurement of construction-related goods and services by Texas Cooperative members. The Advisory, available at buyboard.com/Vendor/Resources.aspx, provides an overview of certain legal requirements that are potentially relevant to a Cooperative member's procurement of construction or construction-related goods and services, including those for projects that may involve or require architecture, engineering or independent testing services. A copy of the Advisory can also be provided upon request. Because many BuyBoard contracts include goods or installation services that might be considered construction-related, Proposer must make this Construction Related-Goods and Services Affirmation regardless of type of goods or services associated with this Proposal Invitation.

A contract awarded under this Proposal Invitation covers only the specific goods and/or services awarded by the Cooperative. As explained in the Advisory ("Advisory"), **Texas law prohibits the procurement of architecture or engineering services through a purchasing cooperative. This Proposal Invitation and any Contract awarded thereunder does not include such services. Architecture or engineering services must be procured by a Cooperative member separately, in accordance with the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and other applicable law and local policy.**

By signature on the Compliance Forms Signature Page, Proposer affirms that Proposer has obtained a copy of the Advisory, has read and understands the Advisory, and is authorized by Proposer to make this affirmation. If Proposer sells construction-related goods or services to a Cooperative member under a Contract awarded under this Proposal Invitation, Proposer will comply with the Advisory and applicable legal requirements, make a good faith effort to make its Cooperative member customers or potential Cooperative member customers aware of such requirements, and provide a Cooperative member with a copy of the Advisory before accepting the member's Purchase Order, Member Construction Contract, or other agreement for construction-related goods or services.

Initial: NBH

DEVIATION AND COMPLIANCE

If your company intends to deviate from the General Terms and Conditions, Proposal Specifications or other requirements associated with this Proposal Invitation, you MUST list all such deviations on this form, and provide complete and detailed information regarding the deviations on this form or an attachment to this form. **Prior to completing this form, Vendor shall review the General Terms and Conditions section B.4 (Deviations from Item Specifications and General Terms and Conditions). Please note that, as provided in section B.4, certain provisions of the General Terms and Conditions are NOT subject to deviation, and certain deviations will be deemed rejected without further action by the Cooperative. Any attempted deviation, whether directly or indirectly, to provisions identified in this Proposal Invitation as not subject to deviation shall be deemed rejected by the Cooperative and, unless otherwise withdrawn by Vendor, may result in Vendor's Proposal being rejected in its entirety.**

The Cooperative will consider any deviations in its contract award decision and reserves the right to accept or reject a proposal based upon any submitted deviation.

In the absence of any deviation identified and described in accordance with the above, your company must fully comply with the General Terms and Conditions, Proposal Specifications and all other requirements associated with this Proposal Invitation if awarded a Contract under this Proposal Invitation. A deviation will not be effective unless accepted by the Cooperative. The Cooperative, by and through the Cooperative administrator, may, in its sole discretion, seek clarification from and/or communicate with Proposer(s) regarding any submitted deviation, consistent with general procurement principles of fair competition. The Cooperative reserves the right to accept or reject a Proposal based upon any submitted deviation.

Please check (√) one of the following:

☒ **No**; Deviations
☐ **Yes**; Deviations

List and fully explain any deviations you are submitting:

Initial: MB

VENDOR CONSENT FOR NAME BRAND USE

BuyBoard members seeking to make purchases using a Contract awarded under this Proposal Invitation may view information regarding awarded Vendors, including but not limited to product catalogs, pricelists, pricing, and Proposals, through the BuyBoard website. To improve and enhance the experience of BuyBoard members seeking to procure goods and services under the Contract utilizing the BuyBoard website, any Vendor logo, product images, and similar brand and trademark information provided by Vendor for purposes of the Contract ("Vendor Information") may be posted on the BuyBoard website.

You acknowledge that, by submitting your Proposal, unless you specifically opt out below, you consent to use of your company's Vendor Information on the BuyBoard website if awarded a Contract. You further acknowledge that whether, where, and when to include the Vendor Information on the BuyBoard website shall be at the sole discretion of the BuyBoard Administrator. Vendor retains, however, the right of general quality control over the BuyBoard Administrator's authorized display of proprietary Vendor Information. Neither the BuyBoard nor its administrator will be responsible for the use or distribution of Vendor Information by BuyBoard members or any other third party using the BuyBoard website. This Vendor Consent shall be effective for the full term of the Contract, including renewals, unless Vendor provides a signed, written notice revoking consent to contractadmin@buyboard.com. BuyBoard shall have up to thirty days from the date of receipt of a termination or revocation of a Vendor Consent to remove Vendor information from the BuyBoard website.

This Vendor Consent is subject to the Terms and Conditions of the Contract, including, but not limited to, those terms pertaining to Disclaimer of Warranty and Limitation of Liability, Indemnification, and Intellectual Property Infringement.

Vendor logo files must be submitted in one of the formats set forth in the BuyBoard Technical Requirements. Proposers are requested to submit this information with Vendor's Proposal. (This consent shall not authorize use of your company's Vendor Information by BuyBoard if your company is not awarded a Contract.)

OPT OUT:

If your company wishes to opt out of the Vendor Consent for Name Brand Use, you must check the opt out box below. ***DO NOT select this box unless your company is opting out of this Vendor Consent for Name Brand Use.***

☐ By checking this box, Vendor hereby declines to provide consent for use of Vendor Information (as defined herein) on the BuyBoard website. **By opting out, Vendor acknowledges and agrees that, if Vendor is awarded a Contract under this Proposal Invitation, information available on the BuyBoard for Vendor's awarded products or services may be limited, potentially placing Vendor at a disadvantage and impacting the ability of Cooperative members to search, find, review, and purchase Vendor's awarded products and services on the BuyBoard website.**

Initial: NBK

CONFIDENTIAL/PROPRIETARY INFORMATION

A. Public Disclosure Laws

All Proposals, forms, documentation, catalogs, pricelists, or other materials submitted by Vendor to the Cooperative in response to this Proposal Invitation, may be subject to the disclosure requirements of the Texas Public Information Act (Texas Government Code chapter 552.001, *et. seq.*) or similar disclosure law. Proposer must clearly identify on this form any information in its Proposal (including forms, documentation, or other materials submitted with the Proposal) that Proposer considers proprietary or confidential. If Proposer fails to properly identify the information, the Cooperative shall have no obligation to notify Vendor or seek protection of such information from public disclosure should a member of the public or other third party request access to the information under the Texas Public Information Act or similar disclosure law. When required by the Texas Public Information Act or other disclosure law, Proposer may be notified of any third-party request for information in a Proposal that Proposer has identified in this form as proprietary or confidential.

Does your Proposal (including forms, documentation, catalogs, pricelists, or other materials submitted with the Proposal) contain information which Vendor considers proprietary or confidential?

Please check (√) one of the following:

☐ **NO**, I certify that none of the information included with this Proposal is considered confidential or proprietary.

☒ **YES**, I certify that this Proposal contains information considered confidential or proprietary and all such information is specifically identified on this form.

If you responded "YES", you must clearly identify below the specific information you consider confidential or proprietary. List each page number, form number, or other information sufficient to make the information readily identifiable. The Cooperative and Cooperative administrator shall not be responsible for a Proposer's failure to clearly identify information considered confidential or proprietary. Further, by submitting a Proposal, Proposer acknowledges that the Cooperative and Cooperative administrator will disclose information when required by law, even if such information has been identified herein as information Vendor considers confidential or proprietary.

Confidential / Proprietary Information:

Due to the nature of our business, fixing trip hazards, that represent a potential legal liability to our customers the information regarding current or previous customers is considered confidential. Additionally, we request that customer information be kept confidential for competitive purposes. Please keep all information regarding governmental references confidential.

(Attach additional sheets if needed.)

Initial: MBH

B. Copyright Information

Does your Proposal (including forms, documentation, pricelists, catalogs, or other materials submitted with the Proposal) contain copyright information?

Please check (√) one of the following:

☐ **NO,** Proposal (including forms, documentation, pricelists, catalogs, or other materials submitted with the Proposal) does not contain copyright information.

☒ **YES,** Proposal (including forms, documentation, pricelists, catalogs, or other materials submitted with the Proposal) does contain copyright information.

If you responded "YES", clearly identify below the specific documents or pages containing copyright information.

Copyright Information: We claim copyrights on all customer related information provided in this proposal. In particular, page 29 of this proposal and any other pages that address specific customers by name.

(Attach additional sheets if needed.)

C. Consent to Release Confidential/Proprietary/Copyright Information to BuyBoard Members

BuyBoard members (Cooperative and nonprofit members) seeking to make purchases through the BuyBoard may wish to view information included in the Proposals of awarded Vendors. If you identified information on this form as confidential, proprietary, or subject to copyright, and you are awarded a BuyBoard contract, your acceptance of the BuyBoard contract award constitutes your consent to the disclosure of such information to BuyBoard members, including posting of such information on the secure BuyBoard website for members. Note: Neither the Cooperative nor Cooperative administrator will be responsible for the use or distribution of information by BuyBoard members or any other party.

D. Consent to Release Proposal Tabulation

Notwithstanding anything in this Confidential/Proprietary Information form to the contrary, by submitting a Proposal, Vendor consents and agrees that, upon Contract award, the Cooperative may publicly release, including posting on the public BuyBoard website, a copy of the proposal tabulation and award information for the Contract including Vendor name; proposed catalog/pricelist name(s); proposed percentage discount(s), hourly labor rate(s), or other specified pricing; and Vendor award or non-award information.

Initial:

EDGAR VENDOR CERTIFICATION

(2 CFR Part 200 and Appendix II)

When a Cooperative member seeks to procure goods and services using funds under a federal grant or contract, specific federal laws, regulations, and requirements may apply in addition to those under state law. This includes, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR 200 (sometimes referred to as the "Uniform Guidance" or new "EDGAR"). All Vendors submitting a Proposal must complete this EDGAR Certification Form regarding Vendor's willingness and ability to comply with certain requirements which ***may*** be applicable to specific Cooperative member purchases using federal grant funds. Completed forms will be made available to Cooperative members for their use while considering their purchasing options when using federal grant funds. Cooperative members may also require Vendors to enter into ancillary agreements, in addition to the terms and conditions of the BuyBoard contract, to address the member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts.

For <u>each</u> of the items below, Vendor should certify Vendor's agreement and ability to comply, where applicable, by having Vendor's authorized representative check the applicable boxes, initial each page, and sign the Compliance Forms Signature Page. If you fail to complete any item in this form, the Cooperative will consider and may list the Vendor's response on the BuyBoard as "NO," the Vendor is unable or unwilling to comply. A "NO" response to any of the items may, if applicable, impact the ability of a Cooperative member to purchase from the Vendor using federal funds.

1. Vendor Violation or Breach of Contract Terms:

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 USC 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Provisions regarding Vendor default are included in the BuyBoard General Terms and Conditions, including Section E.18, Remedies for Default and Termination of Contract. Any Contract award will be subject to such BuyBoard General Terms and Conditions, as well as any additional terms and conditions in any Purchase Order, Member Construction Contract, or Cooperative member ancillary contract agreed upon by Vendor and the Cooperative member which must be consistent with and protect the Cooperative member at least to the same extent as the BuyBoard Terms and Conditions. The remedies under the Contract are in addition to any other remedies that may be available under law or in equity. By submitting a Proposal, you agree to these Vendor violation and breach of contract terms.

■ **YES**, I agree. ☐ **NO**, I do not agree.

2. Termination for Cause or Convenience:

For any Cooperative member purchase or contract in excess of $10,000 made using federal funds, you agree that the following term and condition shall apply:

The Cooperative member may terminate or cancel any Purchase Order under this Contract at any time, with or without cause, by providing seven (7) business days advance written notice to the Vendor. If this Agreement is terminated in accordance with this Paragraph, the Cooperative member shall only be required to pay Vendor for goods or services delivered to the Cooperative member prior to the termination and not otherwise returned in accordance with Vendor's return policy. If the Cooperative member has paid Vendor for goods or services not yet provided as of the date of termination, Vendor shall immediately refund such payment(s).

If an alternate provision for termination of a Cooperative member purchase for cause and convenience, including the manner by which it will be effected and the basis for settlement, is included in the Cooperative member's Purchase Order, Member Construction Contract, or ancillary agreement agreed to by the Vendor, the Cooperative member's provision shall control.

■ **YES**, I agree. ☐ **NO**, I do not agree. **Initial:** MB

3. Equal Employment Opportunity:

Except as otherwise provided under 41 CFR Part 60, all Cooperative member purchases or contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall be deemed to include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

The equal opportunity clause provided under 41 CFR 60-1.4(b) is hereby incorporated by reference. Vendor agrees that such provision applies to any Cooperative member purchase or contract that meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and Vendor agrees that it shall comply with such provision.

■ **YES**, I agree. ☐ **NO**, I do not agree.

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4. Davis-Bacon Act:

When required by Federal program legislation, Vendor agrees that, for all Cooperative member prime construction contracts/purchases in excess of $2,000, Vendor shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Vendor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determinate made by the Secretary of Labor. In addition, Vendor shall pay wages not less than once a week.

Current prevailing wage determinations issued by the Department of Labor are available at beta.sam.gov. Vendor agrees that, for any purchase to which this requirement applies, the award of the purchase to the Vendor is conditioned upon Vendor's acceptance of the wage determination.

Vendor further agrees that it shall also comply with the Copeland "Anti-Kickback" Act (40 USC 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

■ **YES**, I agree. ☐ **NO**, I do not agree.

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5. Contract Work Hours and Safety Standards Act:

Where applicable, for all Cooperative member contracts or purchases in excess of $100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

■ **YES**, I agree. ☐ **NO**, I do not agree.

Initial: _____

6. Right to Inventions Made Under a Contract or Agreement:
If the Cooperative member's Federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Vendor agrees to comply with the above requirements when applicable.

■ **YES**, I agree. ☐ **NO**, I do not agree.

7. Clean Air Act and Federal Water Pollution Control Act:
Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended – Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

When required, Vendor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

■ **YES**, I agree. ☐ **NO**, I do not agree.

8. Debarment and Suspension:
Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Vendor certifies that Vendor is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor further agrees to immediately notify the Cooperative and all Cooperative members with pending purchases or seeking to purchase from Vendor if Vendor is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.

■ **YES**, I agree. ☐ **NO**, I do not agree.

9. Byrd Anti-Lobbying Amendment:
Byrd Anti-Lobbying Amendment (31 USC 1352) - Vendors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. As applicable, Vendor agrees to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

■ **YES**, I agree. ☐ **NO**, I do not agree.

Initial: MBA

10. Procurement of Recovered Materials:
For Cooperative member purchases utilizing Federal funds, Vendor agrees to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act where applicable and provide such information and certifications as a Cooperative member may require to confirm estimates and otherwise comply. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery, and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

■ **YES**, I agree. ☐ **NO**, I do not agree.

11. Domestic Preferences for Procurements:
Where appropriate and consistent with law, 2 CFR §200.322 contains certain considerations for domestic preferences for procurements which may be applicable to Cooperative members using federal funds. When required by a Cooperative member, Vendor agrees to provide such information or certification as may reasonably be requested by the Cooperative member regarding Vendor's products, including whether goods, products, or materials are produced in the United States.

■ **YES**, I agree. ☐ **NO**, I do not agree.

12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment
2 CFR §200.216 prohibits expending federal loan or grant funds to procure or obtain certain telecommunications and video surveillance services or equipment. To the extent applicable and when required by a Cooperative member, Vendor agrees to provide such information or certification as may reasonably be requested by the Cooperative member to confirm whether any telecommunications or video surveillance services or equipment provided by Vendor is covered equipment or covered services under 2 CFR §200.216.

■ **YES**, I agree. ☐ **NO**, I do not agree.

13. Profit as a Separate Element of Price:
For purchases using federal funds in excess of the Simplified Acquisition Threshold, a Cooperative member may be required to negotiate profit as a separate element of the price. See, 2 CFR 200.324(b). When required by a Cooperative member, Vendor agrees to provide information and negotiate with the Cooperative member regarding profit as a separate element of the price for a particular purchase. However, Vendor agrees that the total price, including profit, charged by Vendor to the Cooperative member shall not exceed the awarded pricing, including any applicable discount, under Vendor's Cooperative Contract.

■ **YES**, I agree. ☐ **NO**, I do not agree.

14. General Compliance and Cooperation with Cooperative Members:
In addition to the foregoing specific requirements, Vendor agrees, in accepting any Purchase Order from a Cooperative member, it shall make a good faith effort to work with Cooperative members to provide such information and to satisfy such requirements as may apply to a particular Cooperative member purchase or purchases including, but not limited to, applicable recordkeeping and record retention requirements.

■ **YES**, I agree. ☐ **NO**, I do not agree.

Initial: VBK

COMPLIANCE FORMS SIGNATURE PAGE

By initialing pages and by signature below, I certify that I have reviewed the following forms; that the information provided therein is true, complete, and accurate; and that I am authorized by my company to make all certifications, consents, acknowledgements, and agreements contained herein:

- Proposal Acknowledgements
- Felony Conviction Disclosure
- Debarment Certification
- Resident/Nonresident Certification
- Vendor Employment Certification
- No Israel Boycott Certification
- No Excluded Nation or Foreign Terrorist Organization Certification
- Historically Underutilized Business Certification
- Construction-Related Goods and Services Affirmation
- Acknowledgement of BuyBoard Technical Requirements
- Deviation and Compliance
- Vendor Consent for Name Brand Use
- Confidential/Proprietary Information
- EDGAR Vendor Certification

Precision Concrete Cutting
Company Name

Signature of Authorized Company Official

Matthew Haney, President
Printed Name and Title

5/20/21
Date

PROPOSAL FORMS PART 2: VENDOR INFORMATION FORMS

INSTRUCTIONS:

Proposer must completely and accurately provide all information requested in the following Vendor Information Forms or your Proposal may be rejected as non-responsive:

- Vendor Business Name
- Vendor Contact Information
- Federal and State/Purchasing Cooperative Experience
- Governmental References
- Company Profile
- Texas Regional Service Designation
- State Service Designation
- National Purchasing Cooperative Vendor Award Agreement *(Vendors serving outside Texas only)*
- Local/Authorized Seller Listings
- Manufacturer Dealer Designation
- Proposal Invitation Questionnaire
- Vendor Request to Self-Report BuyBoard Purchases *(Optional)*

To the extent any information requested is not applicable to your company, you must so indicate on the form.

VENDOR BUSINESS NAME

By submitting a Proposal, Vendor is seeking to enter into a legal contract with the Cooperative. As such, Vendor must be an individual or legal business entity capable of entering into a binding contract.

Name of Proposing Company: Precision Concrete Cutting, Inc.

*(List the **legal** name of the company seeking to contract with the Cooperative. Do NOT list an assumed name, dba, aka, etc. here. Such information may be provided below. If you are submitting a joint proposal with another entity to provide the same proposed goods or services, each submitting entity should complete a separate vendor information form. Separately operating legal business entities, even if affiliated entities, which propose to provide goods or services separately must submit their own Proposals.)*

Please check (√) one of the following:

Type of Business: ☐ Individual/Sole Proprietor ■ Corporation ☐ Limited Liability Company ☐ Partnership

☐ Other (Specify: _____)

State of Incorporation (if applicable): Utah

Federal Employer Identification Number: 04-3800739

(Vendor must include a completed IRS W-9 form with their Proposal)

Name by which Vendor, if awarded, wishes to be identified on the BuyBoard: *(Note: If different than the Name of Proposing Company listed above, only valid trade names (dba, aka, etc.) of the Proposing Company may be used and a copy of your Assumed Name Certificate(s), if applicable, must be attached.)*

Form **W-9**
(Rev. August 2013)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)
Precision Concrete Cutting

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
☐ Individual/sole proprietor ☐ C Corporation ☒ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Other (see instructions) ▶

Exemptions (see instructions):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)

Address (number, street, and apt. or suite no.)
3191 N Canyon Road

Requester's name and address (optional)

City, state, and ZIP code
Provo, UT 84604

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
___ - ___ - ____

Employer identification number
04 - 3800739

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ [signature] Date ▶ May 20, 2021

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on IRS.gov for information about Form W-9, at *www.irs.gov/w9*. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

VENDOR CONTACT INFORMATION

Proposal/Contract Contact:

Vendor Proposal/Contract Contact Name: Matthew Haney

Vendor Proposal/Contract Contact E-mail Address: matt@safesidewalks.com

Vendor Contact Mailing Address for Proposal/Contract Notices: 3191 N Canyon Rd. Provo, UT 84604

Company Website: www.safesidewalks.com

Purchase Orders Contact Information: All Purchase Orders from Cooperative members will be available through the Internet. Vendors need Internet access and at least one e-mail address so that notification of new orders can be sent to the Internet contact when a new purchase order arrives. An information guide will be provided to Vendors to assist them with retrieving their orders.

Please select options below for receipt of Purchase Orders and provide the requested information:

☒ I will use the internet to receive Purchase Orders at the following address:

Purchase Order E-mail Address: info@safesidewalks.com

Purchase Order Contact: Matthew Haney Phone: (801) 373-6060

Alternate Purchase Order E-mail Address: _____

Alternate Purchase Order Contact: _____ Phone: _____

☐ Purchase Orders may be received by the Designated Dealer(s) identified on my company's Dealer Designation form as provided to the Cooperative administrator. I understand that my company shall remain responsible for the Contract and the performance of all Designated Dealers under and in accordance with the Contract.

Request for Quotes ("RFQ"): Cooperative members will send RFQs to you by e-mail. Please provide e-mail addresses for the receipt of RFQs:

RFQ E-mail Address: info@safesidewalks.com

RFQ Contact: Matthew Haney Phone: (801) 373-6060

Alternate RFQ E-mail Address: _____

Alternate RFQ Contact: _____ Phone: _____

Invoices: Your company will be billed monthly for the service fee due under a Contract awarded under this Proposal Invitation. **All invoices are available on the BuyBoard website and e-mail notifications will be sent when they are ready to be retrieved.**

Please choose only one (1) of the following options for receipt of invoices and provide the requested information:

☒ Service fee invoices and related communications should be provided directly to my company at:

Invoice Mailing address: 3191 N Canyon Rd **Department:** _____

City: Provo **State:** UT **Zip Code:** 84604

Contact Name: Matthew Haney **Phone:** (801) 373-6060

Invoice Fax: (801) 373-6088 **Invoice E-mail Address:** info@safesidewalks.com

Alternative Invoice E-mail Address: _____

☐ In lieu of my company, I request and authorize all service fee invoices to be provided directly to the following billing agent**:

Billing Agent Mailing Address: _____ **Department:** _____

City: _____ **State:** _____ **Zip Code:** _____

Billing Agent Contact Name: _____ **Phone:** _____

Billing Agent Fax: _____ **Billing Agent E-mail Address:** _____

Alternative Billing Agent E-mail Address: _____

*** If Vendor authorizes a billing agent to receive and process service fee invoices, in accordance with the General Terms and Conditions of the Contract, Vendor specifically acknowledges and agrees that nothing in that designation shall relieve Vendor of its responsibilities and obligations under the Contract including, but not limited to, payment of all service fees under any Contract awarded Vendor.*

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. Shipping Via: ☐ Common Carrier ☐ Company Truck ☐ Prepaid and Add to Invoice ☒ Other: _____

2. Payment Terms: *(Note: Vendor payment terms must comply with the BuyBoard General Terms and Conditions and the Texas Prompt Payment Act (Texas Government Code Ch. 2251).):* Net 30 Days

3. Vendor's Internal/Assigned Reference/Quote Number (optional): _____

4. State or attach your return policy. (Note: Only return requirements and processes will be deemed part of Vendor's return policy. Any unrelated contract terms, terms of sale, or other information not specifically related to return requirements and processes included in Vendor's return policy shall not apply to any awarded Contract unless specifically included as a deviation in the Deviation and Compliance Form and accepted by the Cooperative): N/A

5. Are electronic payments acceptable? ☒ Yes ☐ No 6. Are credit card payments acceptable? ☒ Yes ☐ No

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FEDERAL AND STATE/PURCHASING COOPERATIVE EXPERIENCE

The Cooperative strives to provide Cooperative members with the best services and products at the best prices available from Vendors with the technical resources and ability to serve Cooperative members. Please respond to the following questions.

1. Provide the dollar value of sales to or through purchasing cooperatives at or based on an established catalog or market price during the previous 12-month period or the last fiscal year: $1,200,000.00. (The period of the 12-month period is 1/20 / 12/20). In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).

2. By submitting a proposal, you agree that, based on your written discounting policies, the discounts you offer the Cooperative are equal to or better than the best price you offer other purchasing cooperatives for the same items under equivalent circumstances.

3. Provide the information requested below for other purchasing cooperatives for which Proposer currently serves, or in the past has served, as an awarded vendor. Rows should be added to accommodate as many purchasing cooperatives as required.

PURCHASING GROUP	CURRENT VENDOR? (Y/N)	FORMER VENDOR (Y/N)? – IF YES, LIST YEARS AS VENDOR	AWARDED COMMODITY CATEGORY(IES)
1. Federal General Services Administration	Y		ALL
2. T-PASS (State of Texas)	N		
3. OMNIA Partners	N		
4. Sourcewell (NJPA)	N		
5. E&I Cooperative	N		
6. Houston-Galveston Area Council (HGAC)	N		
7. Choice Partners	N		
8. The Interlocal Purchasing System (TIPS)	Y		**Trades, Labor and materials**
9. Other **KPN, PCA, EMCOR**	Y		Trip Hazard Maint.

☐ **MY COMPANY DOES NOT CURRENTLY HAVE ANY OF THE ABOVE OR SIMILAR TYPE CONTRACTS.**

CURRENT BUYBOARD VENDORS

If you are a current BuyBoard vendor in the same contract category as proposed in this Proposal Invitation, indicate the discount for your current BuyBoard contract and the proposed discount in this Proposal. Explain any difference between your current and proposed discounts.

Current Discount (%): N/A **Proposed Discount (%):** N/A

Explanation: _____

GOVERNMENTAL REFERENCES

For your Proposal to be considered, you must supply a minimum of five (5) individual governmental entity references. The Cooperative may contact any and all references provided as part of the Proposal evaluation. Provide the information requested below, including the existing pricing/discounts you offer each customer. The Cooperative may determine whether pricing/discounts are fair and reasonable by comparing pricing/discounts stated in your Proposal with the pricing/discounts you offer other governmental customers. Attach additional pages if necessary.

	Entity Name	Contact	Phone#	Email Address	Discount	Quantity/ Volume
1.	City of Mckinney	Marty Sillito	972-547-7331	msillito@mickinneytexas.org	-	$70,000
2.	City of Norman	Jack Burdett	405-366-5457	jack.burdett@normanok.gov	-	$41,212.50
3.	City of Hurst	Casey Emery	817-788-7207	cemery@hursttx.gov	-	$22,312.26
4.	**Bexar County Public Works**	**Tony Vasquez**	**(210) 335-6710**	**avasquez@bexar.org**	-	**$112,500**
5.	**City of Georgetown**	**Dan Southard**	**(512) 930-8152**	**dan.southhard@georgetown.org**	-	**$31,000**

Do you ever modify your written policies or standard governmental sales practices as identified in the above chart to give better discounts (lower pricing) than indicated? **YES** ☐ **NO** ■ If YES, please explain:

_____

_____

_____

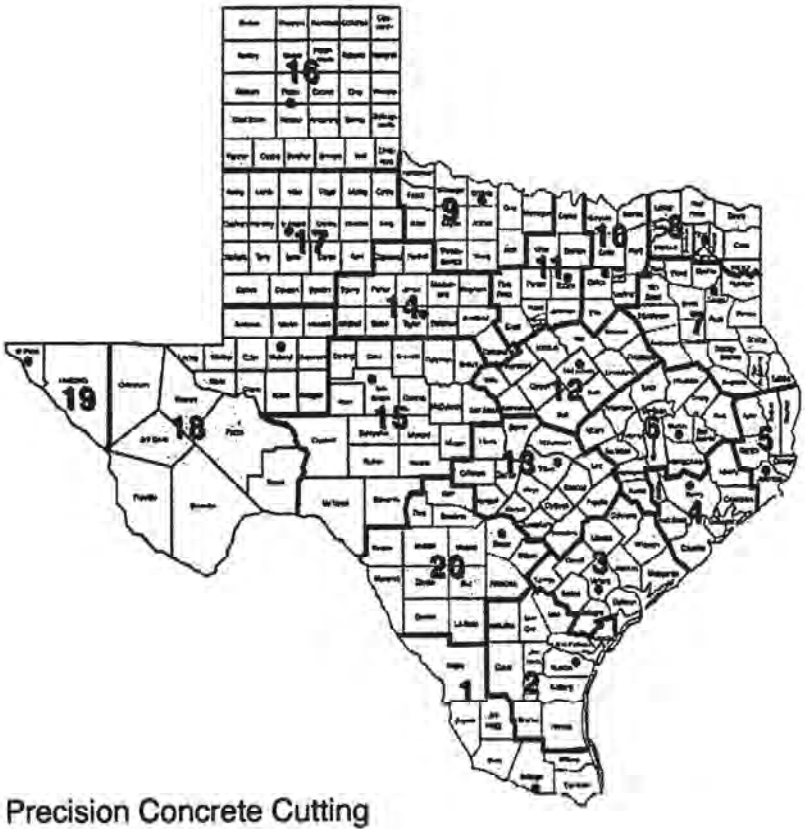
COMPANY PROFILE

Information on awarded Cooperative Contracts is available to Cooperative Members on the BuyBoard website. If your company is awarded a Contract under this Proposal Invitation, please provide a brief company description that you would like to have included with your company profile on the BuyBoard website. **Submit your company profile in a separate file, in Word format, with your Proposal**. (Note: Vendor is solely responsible for any content provided for inclusion on the BuyBoard website. The Cooperative reserves the right to exclude or remove any content in its sole discretion, with or without prior notice, including but not limited to any content deemed by the Cooperative to be inappropriate, irrelevant to the Contract, inaccurate, or misleading.)

TEXAS REGIONAL SERVICE DESIGNATION

The Cooperative (referred to as "Texas Cooperative" in this form and in the State Service Designation form) offers vendors the opportunity to service its members throughout the entire State of Texas. If you do not plan to service all Texas Cooperative members statewide, you **must** indicate the specific regions you will service on this form. If you propose to serve different regions for different products or services included in your Proposal, you must complete and submit a separate Texas Regional Service Designation form for each group of products and clearly indicate the products or services to which the designation applies. ***By designating a region or regions, you are certifying that you are authorized and willing to provide the proposed products and services in those regions. Designating regions in which you are either unable or unwilling to provide the specified products and services shall be grounds for either rejection of your Proposal or, if awarded, termination of your Contract.*** Additionally, if you do not plan to service Texas Cooperative members (i.e., if you will service only states other than Texas), you must so indicate on this form.

Regional Education Service Centers



Precision Concrete Cutting

Company Name

☐ **I will service Texas Cooperative members statewide.**

☐ **I will not service Texas Cooperative members statewide. I will only service members in the regions checked below:**

Region and Headquarters

- ☐ 1 Edinburg
- ☐ 2 Corpus Christi
- ☐ 3 Victoria
- ☐ 4 Houston
- ☐ 5 Beaumont
- ☐ 6 Huntsville
- ☐ 7 Kilgore
- ☐ 8 Mount Pleasant
- ☐ 9 Wichita Falls
- ☐ 10 Richardson
- ☐ 11 Fort Worth
- ☐ 12 Waco
- ☐ 13 Austin
- ☐ 14 Abilene
- ☐ 15 San Angelo
- ☐ 16 Amarillo
- ☐ 17 Lubbock
- ☐ 18 Midland
- ☐ 19 El Paso
- ☐ 20 San Antonio

☐ I will not service members of the Texas Cooperative.

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STATE SERVICE DESIGNATION

As set forth in the Proposal Invitation, it is the Cooperative's intent that other governmental entities in the United States have the opportunity to purchase goods or services awarded under the Contract, subject to applicable state law, through a piggy-back award or similar agreement through the National Purchasing Cooperative BuyBoard. If you plan to service the entire United States or only specific states, you must complete this form accordingly. *(Note: If you plan to service Texas Cooperative members, be sure that you complete the Texas Regional Service Designation form.)* ***In addition to this form, to be considered for a piggy-back award by the National Purchasing Cooperative, you must have an authorized representative sign the National Purchasing Cooperative Vendor Award Agreement that follows this form.***

If you serve different states for different products or services included in your Proposal, you must complete and submit a separate State Service Designation form for each group of products and clearly indicate the products or services to which the designation applies. ***By designating a state or states, you are certifying that you are authorized and willing to provide the proposed products and services in those states. Designating states in which you are either unable or unwilling to provide the specified products and services shall be grounds for either rejection of your Proposal or, if awarded, termination of your Contract.***

Please check (√) all that apply:

☐ I will service all states in the United States.

☒ I will not service all states in the United States. I will service only the states checked below:

- ☒ Alabama
- ☐ Alaska
- ☒ Arizona
- ☒ Arkansas
- ☒ California (Public Contract Code 20118 & 20652)
- ☒ Colorado
- ☒ Connecticut
- ☒ Delaware
- ☒ District of Columbia
- ☒ Florida
- ☒ Georgia
- ☐ Hawaii
- ☒ Idaho
- ☒ Illinois
- ☒ Indiana
- ☒ Iowa
- ☒ Kansas
- ☒ Kentucky
- ☒ Louisiana
- ☒ Maine
- ☒ Maryland
- ☒ Massachusetts
- ☒ Michigan
- ☒ Minnesota
- ☒ Mississippi
- ☒ Missouri
- ☒ Montana
- ☒ Nebraska
- ☒ Nevada
- ☒ New Hampshire
- ☒ New Jersey
- ☒ New Mexico
- ☒ New York
- ☒ North Carolina
- ☒ North Dakota
- ☒ Ohio
- ☒ Oklahoma
- ☒ Oregon
- ☒ Pennsylvania
- ☒ Rhode Island
- ☒ South Carolina
- ☒ South Dakota
- ☒ Tennessee
- ☒ Texas
- ☒ Utah
- ☒ Vermont
- ☒ Virginia
- ☒ Washington
- ☒ West Virginia
- ☒ Wisconsin
- ☒ Wyoming

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NATIONAL PURCHASING COOPERATIVE VENDOR AWARD AGREEMENT

In accordance with the Terms and Conditions associated with this Proposal Invitation, a contract awarded under this Proposal Invitation may be "piggy-backed" by another governmental entity. The National Purchasing Cooperative is an intergovernmental purchasing cooperative formed by certain school districts outside of Texas to serve its members throughout the United States. If you agree to be considered for a piggy-back award by the National Purchasing Cooperative, you agree to the following terms and agree to serve National Purchasing Cooperative members in the states you have indicated on the State Service Designation form, in your Proposal.

By signing this form, Proposer (referred to in this Agreement as "Vendor") agrees as follows:

1. Vendor acknowledges that if The Local Government Purchasing Cooperative ("Texas Cooperative") awards Vendor a contract under this Proposal Invitation ("Underlying Award"), the National Purchasing Cooperative ("National Cooperative") may - but is not required to - "piggy-back" on or re-award all or a portion of that Underlying Award ("Piggy-Back Award"). By signing this National Cooperative Vendor Award Agreement ("Agreement"), Vendor accepts and agrees to be bound by any such Piggy-Back Award as provided for herein.

2. In the event National Cooperative awards Vendor a Piggy-Back Award, the National Cooperative Administrator ("BuyBoard Administrator") will notify Vendor in writing of such Piggy-Back Award, which award shall commence on the effective date stated in the Notice and end on the expiration date of the Underlying Award, subject to annual renewals as authorized in writing by the BuyBoard Administrator. Vendor agrees that no further signature or other action is required of Vendor in order for the Piggy-Back Award and this Agreement to be binding upon Vendor. Vendor further agrees that no interlineations or changes to this Agreement by Vendor will be binding on National Cooperative, unless such changes are agreed to by its BuyBoard Administrator in writing.

3. Vendor agrees that it shall offer its goods and services to National Cooperative members at the same unit pricing and same general terms and conditions, subject to applicable state laws in the state of purchase, as required by the Underlying Award. However, nothing in this Agreement prevents Vendor from offering National Cooperative members better (i.e., lower) competitive pricing and more favorable terms and conditions than those in the Underlying Award.

4. Vendor hereby agrees and confirms that it will serve those states it has designated on the State Service Designation Form of this Proposal Invitation. Any changes to the states designated on the State Service Designation Form must be approved in writing by the BuyBoard Administrator.

5. Vendor agrees to pay National Cooperative the service fee provided for in the Underlying Award based on the amount of purchases generated from National Cooperative members through the Piggy-Back Award. Vendor shall remit payment to National Cooperative on such schedule as it specifies (which shall not be more often than monthly). Further, upon request, Vendor shall provide National Cooperative with copies of all purchase orders generated from National Cooperative members, vendor invoices, and/or such other documentation regarding those purchase orders as the Cooperative's administrators may require in their reasonable discretion for purposes of reviewing and verifying purchase activity. Vendor further agrees that National Cooperative shall have the right, upon reasonable written notice, to review Vendor's records pertaining to purchases made by National Cooperative members in order to verify the accuracy of service fees.

6. Vendor agrees that the Underlying Award, including its General Terms and Conditions, are adopted by reference to the fullest extent such provisions can reasonably apply to the post-proposal/contract award phase. The rights and responsibilities that would ordinarily inure to the Texas Cooperative pursuant to the Underlying Award shall inure to National Cooperative; and, conversely, the rights and responsibilities that would ordinarily inure to Vendor in the Underlying Award shall inure to Vendor in this Agreement. Vendor recognizes and agrees that Vendor and National Cooperative are the only parties to this Agreement, and that nothing in this Agreement has application to other third parties, including the Texas Cooperative. In the event of conflict between this Agreement and the terms of the Underlying Award, the terms of this Agreement shall control, and then only to the extent necessary to reconcile the conflict.

7. This Agreement shall be governed and construed in accordance with the laws of the State of Rhode Island and venue for any dispute shall lie in the federal district court of Alexandria, Virginia.

8. Vendor acknowledges and agrees that the award of a Piggy-Back Award is within the sole discretion of National Cooperative, and that this Agreement does not take effect unless and until National Cooperative awards Vendor a Piggy-Back Award and the BuyBoard Administrator notifies Vendor in writing of such Piggy-Back Award as provided for herein.

WHEREFORE, by signing below Vendor agrees to the foregoing and warrants that it has the authority to enter into this Agreement.

Precision Concrete Cutting	N/A
Name of Vendor	Proposal Invitation Number
	Matthew Haney
Signature of Authorized Company Official	Printed Name of Authorized Company Official
05/20/21	
Date	

LOCATION/AUTHORIZED SELLER LISTINGS

If you have more than one location/authorized seller that will service a Contract awarded under this Proposal Invitation, please list each location/authorized seller below. If additional sheets are required, please duplicate this form as necessary. NOTE: Awarded Vendors shall remain responsible for all aspects of the Contract, including processing of Purchase Orders, and shall be responsible for the performance of all locations and authorized sellers under and in accordance with the Contract. ***If you are a product manufacturer and wish to designate Designated Dealers as defined in the General Terms and Conditions to receive Cooperative member Purchase Orders on your behalf, you must complete the Manufacturer Designated Dealer form.***

Location/Authorized Seller Name	Contact Person	Contact Information (Mailing Address, Phone, Fax, Email)
Precision Concrete Cutting	Joseph Norris	10519 Vaughn, Pike Road, AL 36064 334-391-0901
Precision Concrete Cutting	Austin Horn	1200 Andrews Drive, Conway, AR 72032 844-450-5005
Precision Concrete Cutting	Dave Lardner	1036 Liberty Park Drive, Ste 13B, Austin, TX 78746 512-369-2558
Precision Sidewalk Safety	Alan & Wendy MacMurray	970 SW 104th Street Road, Ocala, FL 34476 352-857-9587
Precision Concrete Cutting	Sal Cenari	80 Platt Lane, Milford, CT 06461 203-410-3086
Precision Concrete Cutting	Tanya & Gary Tucker	213 Maryland Ave, Wilmington, DE 19804 302-543-5833
Georgia Safe Sidewalks	Todd & Regina Fulk	PO Box 14685, Grayson, GA 30017 941-773-4902
Precision Concrete Cutting	Tom Pitney	11922 Stearns Street, Overland Park, KS 66213 913-851-2004
Precision Concrete Cutting	Shayne Lingg	804 Yorkbar Court, Clarksville, TN 37043 270-881-2434
Precision Concrete Cutting	Ron Durna	13089 Peyton Drive, Ste 235, Chino Hills, CA 91709 909-539-7740

LOCATION/AUTHORIZED SELLER LISTINGS

If you have more than one location/authorized seller that will service a Contract awarded under this Proposal Invitation, please list each location/authorized seller below. If additional sheets are required, please duplicate this form as necessary. NOTE: Awarded Vendors shall remain responsible for all aspects of the Contract, including processing of Purchase Orders, and shall be responsible for the performance of all locations and authorized sellers under and in accordance with the Contract. ***If you are a product manufacturer and wish to designate Designated Dealers as defined in the General Terms and Conditions to receive Cooperative member Purchase Orders on your behalf, you must complete the Manufacturer Designated Dealer form.***

Location/Authorized Seller Name	Contact Person	Contact Information (Mailing Address, Phone, Fax, Email)
Precision Concrete Cutting	Gary Beneduci	7514 Girard Ave., La Jolla, CA 92037 858-699-1089
Precision Concrete Removal	Ron & Cathy LeBouef	PO Box 1916, Houma, LA 70361 225-505-9585
Precision Cutting	Mark Bonkowski	1896 Goldeneye Drive, Holland, MI 49424 616-403-1140
Precision Safe Sidewalks	Shawn McCoy	3806 Courtenay Drive SW, Supply, NC 28462 800-734-8891
Precision Concrete Cutting	Marc Cussenot	355 Beach Road, Burlingame, CA 94010 415-638-7006
Precision Concrete Cutting	Mark Quale	936 S Andrew Dr. NE, New London, MN 56273 320-354-2100
Precision Concrete Cutting	Al Schweke & Kevin Fuller	11952 N Harvest Moon Lane, Highland, UT 84003 801-492-3387
Precision Concrete Cutting	Larry & Chandra Dumas	PO Box 3047, Edmond, OK 73083 405-340-6500
Safe Sidewalks	Bryan Dickson	PO Box 22174, Milwaukie, OR 97269 503-206-2947
Always Safe Sidewalks	Tom Sweitzer	459 Lancaster Ave., Devon, PA 19333 267-228-3421

LOCATION/AUTHORIZED SELLER LISTINGS

If you have more than one location/authorized seller that will service a Contract awarded under this Proposal Invitation, please list each location/authorized seller below. If additional sheets are required, please duplicate this form as necessary. NOTE: Awarded Vendors shall remain responsible for all aspects of the Contract, including processing of Purchase Orders, and shall be responsible for the performance of all locations and authorized sellers under and in accordance with the Contract. ***If you are a product manufacturer and wish to designate Designated Dealers as defined in the General Terms and Conditions to receive Cooperative member Purchase Orders on your behalf, you must complete the Manufacturer Designated Dealer form.***

Location/Authorized Seller Name	Contact Person	Contact Information (Mailing Address, Phone, Fax, Email)
Precision Concrete Cutting	Kevin Yocum	32428 Camp Drive, Temecula, CA 92592 619-206-1870
Florida Sidewalk Solutions	Steve & Dina Sdankus	925 SW 42 Terrace, Plantation, FL 33317 954-792-0708
Safe Step	Chris & Logan Ott	N1641 Waterlefe Drive, Greenville, WI 54942 920-202-0954

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MANUFACTURER DEALER DESIGNATION

If Vendor is a manufacturer that sells products through a dealer network and wishes to designate a dealer or multiple dealers ("Designated Dealers") to receive Cooperative member Purchase Orders on Vendor's behalf, you must complete this form for each dealer you wish to designate.

Regardless of any Designated Dealers submitted by Vendor, Vendor specifically agrees and acknowledges that any such designations are for Vendor's convenience only and shall not, if Vendor is awarded a Contract, relieve Vendor of any obligations under the Contract, including payment of Cooperative service fees on all Purchase Orders submitted to Vendor or any Designated Dealer. In accordance with the General Terms and Conditions, an awarded Vendor shall remain responsible and liable for all of its obligations under the Contract and the performance of both Vendor and any of Vendor's Designated Dealers under and in accordance with the Contract and remain subject to all remedies for default thereunder, including, but not limited to suspension and termination of Vendor's Contract for nonpayment of service fees.

If awarded, Vendor authorizes the Cooperative, in its sole discretion, to list any Vendor Designated Dealers in the BuyBoard system and to receive Purchase Orders directly from Cooperative members on behalf of Vendor. To the extent a Vendor with Designated Dealers receives a Purchase Order directly, it shall be the responsibility of Vendor to appropriately process such Purchase Order in accordance with the Contract, including but not limited to timely forwarding such Purchase Order to a Designated Dealer for processing.

The Cooperative reserves the right, in its sole discretion, to refuse addition of, or request removal of, any Designated Dealer, and Vendor agrees to immediately require such Designated Dealer to cease accepting Purchase Orders or otherwise acting on Vendor's behalf under the Contract. Further, the Cooperative administrator shall be authorized to remove or suspend any or all Designated Dealers from the BuyBoard at any time in its sole discretion.

If you wish to designate a dealer to service a contract awarded under this Proposal Invitation, please list the Designated Dealer below. If you wish to designate multiple dealers, please duplicate this form as necessary.

N/A

Designated Dealer Name

Designated Dealer Contact Person

Designated Dealer Address

City

State

Zip

Phone Number

Fax Number

Email address

Designated Dealer Tax ID Number* **(*attach W-9)**

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PROPOSAL INVITATION QUESTIONNAIRE

The Cooperative will use your responses to the questions below in evaluating your Proposal and technical and financial resources to provide the goods and perform the services ("Work") under the BuyBoard contract contemplated by this Proposal Invitation ("Contract"). Proposers must fully answer each question, numbering your responses to correspond to the questions/numbers below. Proposers must complete below or attach your responses to this questionnaire and submit in one document with your Proposal. **You must submit the questionnaire and responses with your Proposal or the Proposal will not be considered.**

1. List the number of years Proposer has been in business and former business names (if applicable). Note whether your company is currently for sale or involved in any transaction that would significantly alter its business or result in acquisition by another entity.

Precision Concrete Cutting (PCC) has been in business for 26 years. Before having the name PCC, the company was called Amerex, which stands for American Excellence. PCC is not for sale or involved in any transaction that would significantly alter the business or result in acquisition by another entity.

2. Describe Vendor's direct experience (not as a subcontractor) performing the Work proposed under this Contract. Include a brief description of the projects you have completed for Texas governmental entities in the last 5 years, and include for each the project name, scope, value, and date, and the name of the procuring government entity and entity contact person. Identify the contracts that best represent Vendor's capabilities relative to this Contract.

PCC Has worked for countless number of schools, cities, universities, towns, homeowners assoc., apartment complexes, etc. throughout North America and Australia. In Texas we've worked for Bexar County public works, working at various locations throughout the county, total value of the contract was $112,500. The work has been done over February and March of 2018. Our contact is **Tony Vasquez**

3. Describe the resources Proposer has to manage staff and successfully perform the Work contemplated under this Contract. State the number and summarize the experience of company personnel who may be utilized for the Work, including those who will be available to Cooperative members for assistance with project development, technical issues, and product selection for Work associated with this Contract.

PCC uses a project management tool which assigns and facilitates the management of each of our projects. The program is called the "Terminal" and is specific to this type of work. All locations are managed by owner/operators which have extensive training and expertise in the sidewalk trip hazard business. The company has local offices as well as national headquarters offices which have staff to **assist with technical issues, project development, and product/service selection. Each local office will have 1-2 person(s) specifically assigned to BuyBoard, but additionally, the national headquarters will also have a specifically assigned person to BuyBoard related work. In summary, with the national representative, each office will have 2-3 people for local work.**

4. The Contract does not include architectural or engineering services, which must be procured separately, outside of the Cooperative, in accordance with Chapter 2254 of the Texas Government Code (Professional Services Procurement Act) or other applicable law (for entities outside of Texas). If you are performing Work under the Contract on a project that requires the services of an architect or professional engineer, how will you work with a Cooperative member and its designated architect or engineer with respect to services that must be procured outside the Contract?

The work performed by PCC does not require the services of an architect or professional engineer.

5. Describe the tasks and functions that can be completed by Vendor in-house without the use of a subcontractor or other third party.

PCC surveys and repairs sidewalk trip hazards. The company uses its proprietary app to survey the area, provide an inventory of all trip hazards that violate the Americans with Disabilities ACT (ADA) change in level requirement, and provide our patented trip hazard repair solution for fixing the issues that need to be repaired. Additionally, the company provides a sidewalk asset management plan for compliance.

6. **Marketing Strategy:** For your Proposal to be considered, you must submit the Marketing Strategy you will use if the Cooperative accepts all or part of your Proposal. *(Example: Explain how your company will initially inform Cooperative members of your BuyBoard Contract, and how you will continue to support the BuyBoard for the duration of the Contract term.)* Attach additional pages if necessary.

See attached page.

7. Describe Proposer's financial capability to perform the Contract. State or describe the firm's financial strength and rating, bonding capacity, and insurance coverage limits. State whether the firm, or any of the firm's past or present owners, principal shareholders or stockholders, or officers, have been a debtor party to a bankruptcy, receivership, or insolvency proceeding in the last 7 years, and identify any such debtor party by name and relationship to or position with your firm.

PCC's financial rating is excellent, we have bond capability of up to $4M, which is much higher than needed for the projects we are given. Our insurance coverage is $2M general liability, with an umbrella policy which bumps it to $3M. We have audited financials and have been a going concern since 1992. The company, its shareholders, and officers have never been a debtor party to a bankruptcy, receivership, or insolvency in the past.

8. Does your company have any outstanding financial judgments and/or is it currently in default on any loan or financing agreement? If so, provide detailed information on the nature of such items and prospects for resolution.

The company has no outstanding judgements, and is not in default on any loan or financing agreement.

9. List all contracts, if any, in the last 10 years on which Proposer has defaulted, failed to complete or deliver the work, or that have been terminated for any reason. Include any contract for which the surety was notified of a potential claim in regard to a payment or performance bond. For each such contract, provide the project name, scope, value and date and the name of the procuring entity. Fully explain the circumstances of the default, notice to surety, failure to complete or deliver the work, or termination.

There have been no contracts that have defaulted, failed to complete or deliver the work or terminated for any reason.

10. List all litigation or other legal proceedings (including arbitration proceedings and/or claims filed with a surety in regard to a payment or performance bond), if any, in the last 10 years brought against your firm, or any of the firm's past or present owners, principal shareholders or stockholders, officers, agents or employees, that relate to or arise from a contract similar to this Contract or the Work contemplated under this Contract. Provide the style of the lawsuit or proceeding (name of parties and court or tribunal in which filed), nature of the claim, and resolution or current status.

There have been no legal precedings or litigation brought against PCC or owners, shareholders, officers, agents, etc. in the past 10 years with regard to a contract or work contemplated under this contract.

11. Describe in detail the quality control system Vendor will use, including third party auditing certification, to support the long-term performance and structural strength of the products to be used in a project under the Contract.

We primarily rely upon our work order management system for tracking locations of the repairs, and also for systematically inspecting and verifying repairs have been made. We use a program called the "terminal" that has the technician first validate that the repair has been made, then the on-site supervisor reviews while in the field, but the supervisor also goes out and inspects before the contract **is invoiced. This 3 step process for quality control is essential to guarantee our work, craftsmanship, and for auditing purposes.**

12. If the Work will require Vendor to tender performance or payment bonds, provide the name of the bonding company or surety that will issue such bonds.

Infiniteam Insurance

13. Describe in detail all documented safety issues, if any, that have involved Vendor in the last three years related to the type of work contemplated under this Contract. Provide a three-year history of your firm's workers compensation experience modifier.

We have not had any safety issues in the past 3 years that involved more than a simple first aid kit resources, however previous to the last 3 years, we've had some stitches due to cuts that have occured on the saw. Our EMOD rate for the past 3 years has been 0.72 for 2021, 0.87 for 2020, and 0.90 for 2019.

PRECISION CONCRETE CUTTING
Trip Hazard Removal Specialists

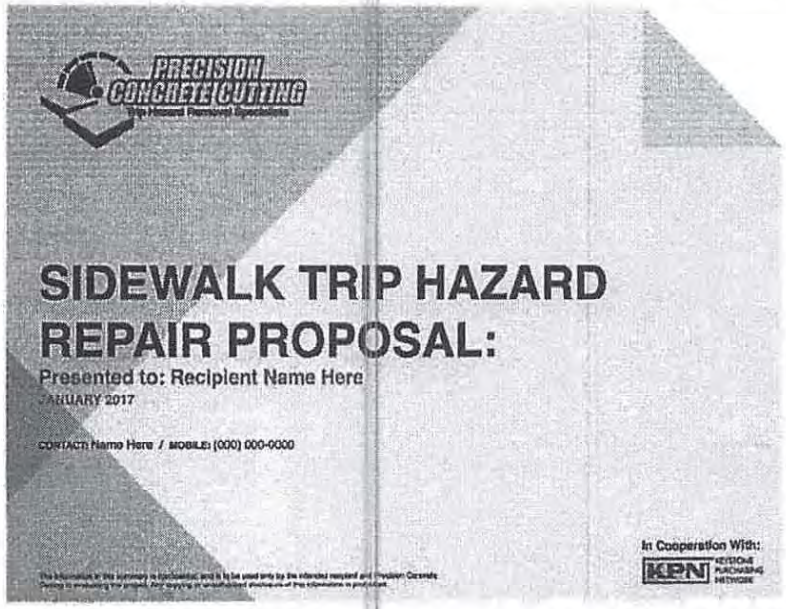
Marketing Strategy:

The first step in promoting this contract will be through an owner / manager conference call, and then we will announce it on our bi-weekly sales trainings. We have these trainings so frequently that within a short period of time every sales rep will know about the program and how to use the contract to do work. We are always looking for ways to shorten the sales cycle, so the use of a Co-Op is a great way to do that.

We also will include logos for the Co-Op on marketing materials so that our potential customers will know how we intend to do business. If they aren't members of the co-op we will show them and encourage them to join.

The bi-weekly sales trainings are done by a 3rd party sales coach which management will educate on the benefits and advantages of the co-op.

a. There is both a home office (corporate) component as well as a local component for the promotion and marketing of the co-op and how to use it. We will announce and promote it to the managers/owners and also have education come from our 3rd party sales coach, but the local managers, who have the most profit incentive, will work with their individual sales team members to actually execute on the co-op use. We don't currently have a stated corporate commitment to this co-op, but will do so if awarded.
b. As mentioned, we will include logos on proposals, brochures and other marketing materials. In addition we plan to target those members that may already be members of the co-op since the adoption will be easiest using existing members that don't need to sign up for the co-op. We do attend conferences on a regular basis and upon award, can put a logo for the co-op in the trade show booth for notice of potential customers.
c. A sample of our proposals, with a previously awarded co-op logo has been included below:



d. We will train our staff with the bi-weekly coaching sessions and in particular have the emphasis be with our 3rd party coach to train. These training sessions range between 45 minutes to 1 hour every Monday and it is a great forum for additional training items, and to review existing policies, procedures, and programs like Buy Board.
e. We would love an oral interview if we get short listed with Buy Board.



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VENDOR REQUEST TO SELF-REPORT BUYBOARD PURCHASES

The General Terms and Conditions require that all Purchase Orders generated by or under any Contract awarded under this Proposal Invitation be processed through the BuyBoard and, except as expressly authorized in writing by the Cooperative administrator, Vendors are not authorized to process Purchase Orders received directly from Cooperative members that have not been processed through the BuyBoard or provided to the Cooperative. In accordance with this provision, Vendor may request authorization of the Cooperative administrator to self-report Cooperative member purchases if awarded a Contract under this Proposal Invitation. By making such a request, Vendor acknowledges and agrees that self-reporting is specifically subject to and conditioned upon (1) Vendor's agreement to the Additional Terms and Conditions for BuyBoard Self-Reporting which are included in this Proposal Invitation and incorporated herein for all purposes and (2) approval of this request in writing by the Cooperative administrator.

Note: This form is NOT required as part of your proposal. You should sign and return this form ONLY if you wish to request authorization to self-report BuyBoard purchases. Any request to self-report will not be effective, and Vendor shall not be authorized to self-report BuyBoard member purchases, unless and until (1) Vendor is awarded a Contract under this Proposal Invitation, and (2) the request has been approved in writing by the Cooperative administrator.

By my signature below, I hereby request authorization from the Cooperative administrator to self-report BuyBoard purchases if my company is awarded a Contract. I certify that I am authorized by the above-named Vendor to approve this form, and I have received and read the Additional Terms and Conditions for BuyBoard Self-Reporting included in this Proposal Invitation and do hereby approve and agree to such terms and conditions on behalf of Vendor.

NAME OF VENDOR: Precision Concrete Cutting

Signature of Vendor Authorized Representative

Printed Name: Matthew Haney

Title: President

Date: 05/20/21

(For Cooperative Administrator Use Only)

Approved by BuyBoard Administrator: _____

Effective/Start Date for Self-Reporting: _____

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REQUIRED FORMS CHECKLIST

(Please check (√) the following)

☒ Reviewed/Completed: **Proposer's Acceptance and Agreement**

PROPOSAL FORMS PART 1: COMPLIANCE FORMS

☒ Reviewed/Completed: **Proposal Acknowledgements**
☒ Reviewed/Completed: **Felony Conviction Disclosure**
☒ Reviewed/Completed: **Resident/Nonresident Certification**
☒ Reviewed/Completed: **Debarment Certification**
☒ Reviewed/Completed: **Vendor Employment Certification**
☒ Reviewed/Completed: **No Israel Boycott Certification**
☒ Reviewed/Completed: **No Excluded Nation or Foreign Terrorist Organization Certification**
☒ Reviewed/Completed: **Historically Underutilized Business Certification**
☒ Reviewed/Completed: **Acknowledgement of BuyBoard Technical Requirements**
☒ Reviewed/Completed: **Construction-Related Goods and Services Affirmation**
☒ Reviewed/Completed: **Deviation and Compliance**
☒ Reviewed/Completed: **Vendor Consent for Name Brand Use**
☒ Reviewed/Completed: **Confidential/Proprietary Information**
☒ Reviewed/Completed: **EDGAR Vendor Certification**
☒ Reviewed/Completed: **Compliance Forms Signature Page**

PROPOSAL FORMS PART 2: VENDOR INFORMATION FORMS

☒ Reviewed/Completed: **Vendor Business Name**
☒ Reviewed/Completed: **Vendor Contact Information**
☒ Reviewed/Completed: **Federal and State/Purchasing Cooperative Experience**
☒ Reviewed/Completed: **Governmental References**
☒ Reviewed/Completed: **Company Profile**
☒ Reviewed/Completed: **Texas Regional Service Designation**
☒ Reviewed/Completed: **State Service Designation**
☒ Reviewed/Completed: **National Purchasing Cooperative Vendor Award Agreement** *(Vendors serving outside Texas only)*
☒ Reviewed/Completed: **Local/Authorized Seller Listings**
☒ Reviewed/Completed: **Manufacturer Dealer Designation**
☒ Reviewed/Completed: **Proposal Invitation Questionnaire**
☒ Reviewed/Completed: **Vendor Request to Self-Report BuyBoard Purchases** *(Optional)*

☒ Reviewed/Completed: **Proposal Specifications** *Discount (%) off Catalog/Pricelist and/or other required pricing information including Catalogs/Pricelists (or no bid response) must be submitted with the Proposal or the Proposal will not be considered.*

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PROPOSAL SPECIFICATION SUMMARY

The categories and items specified for this Proposal Invitation are summarized below. For full Proposal Specifications, you must review and complete the Proposal Specification information in the electronic proposal submission system in accordance with the Instructions to Proposers (or, if submitting a hard copy Proposal, timely request and complete the Proposal Specification Form in accordance with the Instructions to Proposers).

Section I: Equipment, Products, and Supplies

1. Discount (%) off catalog/pricelist for **Electrical Supplies, Materials and Equipment.**
2. Discount (%) off catalog/pricelist for **All Types of Power Generating Equipment** (electric, gas, diesel portable, back up on-site).
3. Discount (%) off catalog/pricelist for **Various Types of Lamps and Ballasts** (fluorescent, incandescent, quartz, HID, shatterproof, metal halide, high pressure sodium, ballasts, similar related items).
4. Discount (%) off catalog/pricelist for **Various Types of Lighting Fixtures.**
5. Discount (%) off catalog/pricelist for **All Types of Indoor Signage.**
6. Discount (%) off catalog/pricelist for **All Types of Solar Supplies and Equipment.**
7. Discount (%) off catalog/pricelist for **Building Supplies and Materials** (carpentry, lumber, drywall, insulation products, concrete products, and similar related items).
8. Discount (%) off catalog/pricelist for **Doors-All Types and Sizes** (metal, wooden, and similar related items).
9. Discount (%) off catalog/pricelist for **Overhead Doors-All Types and Sizes** (metal, wooden, similar related items).
10. Discount (%) off catalog/pricelist for **All Types of Fasteners and Hardware Products** (doors, cabinets, and similar related items).
11. Discount (%) off catalog/pricelist for **Roofing Materials and Supplies** (PRODUCTS ONLY-NO LABOR).
12. Discount (%) off catalog/pricelist for **Paint and Paint Related Products, Supplies and Equipment.**
13. Discount (%) off catalog/pricelist for **Parking Lot Striping Equipment, Supplies and Materials.**
14. Discount (%) off catalog/pricelist for **Plumbing Supplies, Materials and Equipment.**
15. Discount (%) off catalog/pricelist for **Various Types of Toilet Partitions, Sinks, and Countertops.**
16. Discount (%) off catalog/pricelist for **All Types of Energy and Water Monitoring Products.**
17. Discount (%) off catalog/pricelist for **Boiler Equipment and Supplies.**
18. Discount (%) off catalog/pricelist for **HVAC Refrigerants and Supplies.**
19. Discount (%) off catalog/pricelist for **All Types of Hand Tools and Sets.**
20. Discount (%) off catalog/pricelist for **Welding Supplies and Equipment.**
21. Discount (%) off catalog/pricelist for **Commercial Building Glass and Other Glass Materials and Supplies.**
22. Discount (%) off catalog/pricelist for **Building Entryway Awnings, Canopies and Related Accessories** - all types of material (metal, fabric, and related materials).
23. Discount (%) off catalog/pricelist for **Elevator Equipment and Supplies.**
24. Discount (%) off catalog/pricelist for **Escalator Equipment and Supplies.**
25. Discount (%) off catalog/pricelist for **Material Handling and Storage Equipment and Supplies** (forklifts, warehouse storage systems, pallet jacks, similar related items).
26. Discount (%) off catalog/pricelist for **All Types of Fencing Materials and Supplies.**
27. Discount (%) off catalog/pricelist for **Pest Control Products and Supplies.**
28. Discount (%) off catalog/pricelist for **Power Washing Equipment and Materials.**
29. Discount (%) off catalog/pricelist for **Soil/Road Chemical Base Stabilizer Products** (solvents, surfactants, acid oxidizers, and common dispersing agents).
30. Discount (%) off catalog/pricelist for **All Other Building Maintenance, Repair and Operations Products not listed** (supplies, materials and equipment).

Section II: Installation and Repair Service

31. **Hourly Labor Rate for Installation/Repair Service of Boiler Equipment and Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
32. **Hourly Labor Rate for Installation/Repair Service of Power Generating Equipment, Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
33. **Hourly Labor Rate for Installation/Repair Service of Commercial Building Glass and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
34. **Hourly Labor Rate for Installation/Repair Service of Elevator Equipment, Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
35. **Hourly Labor Rate for Installation/Repair Service of Escalator Equipment, Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
36. **Hourly Labor Rate for Installation/Repair Service of Fencing Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
37. **Hourly Labor Rate for Installation/Repair Service of Toilet Partitions, Sinks, Countertops and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
38. **Hourly Labor Rate for Installation/Repair Service of Overhead Door Equipment, Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
39. **Hourly Labor Rate for Installation/Repair Service of Doors, Framework, Door Hardware Equipment, Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
40. **Hourly Labor Rate for Installation/Repair Service of Building Entryway Awnings, Canopies and Related Equipment, Products and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
41. **Hourly Labor Rate for Installation/Repair Service of Power Washing Equipment and/or Services and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
42. **Hourly Labor Rate for Installation/Repair Service of Parking Lot Striping Equipment and/or Services and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.
43. **Hourly Labor Rate for Installation/Repair Service of Concrete Cutting and Related Items -- Not to Exceed** hourly labor rate for Installation/Repair Service of Equipment and Products.

PRECISION CONCRETE CUTTING
Trip Hazard Removal Specialists

3191 N. Canyon Road Provo, UT 84604
Office: (801) 373-6060 Fax: (801) 373-6088
www.safesidewalks.com

Ability to Provide and Perform the Service

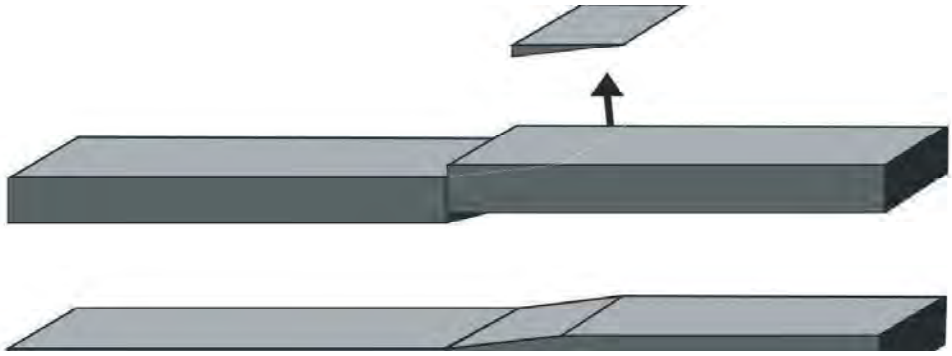
• Precision Concrete Cutting's (PCC) core competency is as follows:

1. Repairing Uneven Sidewalks (trip hazards) on walkways
2. Surveying Sidewalk Infrastructure and reporting details to customer

1. Details on Repairing Uneven Sidewalks:

PCC started out as a grinding company, but was not satisfied with the poor performance of commercial grinders. The company pioneered and patented a new technique in 2002 that did a much better job at fixing uneven sidewalks.

We use a saw-cutting method, which horizontally slices the trip hazard away and matches the sidewalks at the control joint or cracks. See illustration below.



This method is a way to preserve the existing infrastructure, save time, money and hassle of removing the sidewalk panels, and saves landfills from concrete waste.

PCC provides this service to hundreds of customers per year in the USA, Canada and Australia. The company has over 50 offices throughout these three countries.

PCC's customers are schools, universities, cities, towns, home owner associations, apartment owners, commercial buildings, shopping centers, etc.

In particular our work is designed to provide a solution to the Americans with Disabilities Act requirements (ADA) that is federally mandates. Similar laws and ordinances exist in Canada and Australia.

Services

ADA Compliant Uneven Sidewalk Repair Services **Cost: $54 / Inch Foot (IF)**
PCC makes sidewalks safer by using proprietary equipment and methodology to very precisely CUT away sidewalk trip hazards leaving an ADA result every time. The process is quick, clean, convenient, and very cost effective. Our detailed reporting allows for easy auditing and instantaneous GIS uploading.

Sidewalk Asset Management Surveying **Cost: $300 / Sidewalk Mile**
PCC uses a proprietary software application to survey and record pedestrian infrastructure issues. The vertical height of an uneven sidewalk deflection is measured in 8ths of an inch in order to determine the requisite slope required by the ADA to repair such location. This data is recorded and used to calculate the number of "inch feet" of concrete to be precisely cut away. PCC can gather additional data points, or data on additional variables that are desired for the survey. Examples include overgrown



vegetation on the walkway, cracks, spalling, missing ramps, etc. All this data is provided with photographs and GPS coordinates that can be provided in a shape file or KML format to be delivered to the customer for their internal system.

Description of Experience
PCC has been doing ADA Compliant Uneven Sidewalk Repair services since 1992. The company was one of the first to use a scarifier or concrete planner to fix uneven sidewalks. The company was not satisfied with that technique and in 2002 began using the saw cutting method to repair sidewalks, and refined its dust reduction system.

PCC has worked with countless municipalities throughout the USA, Canada and for the past year have been working in Australia. We have offered the surveying technology since 2010 when smart phones and apps were available for programming.

Description of Services
We use the following equipment and tools for the work we do:

- Generator
- Right Angled Grinder
- 3-Motor Concrete Vacuum
- Cart
- Saw Blades
- Proprietary System
- Personal Protective Equipment
- Typically 2-3 Technicians
- Additional Supplies
- Truck and Trailer

Warranty / Guarantee
We offer a service, not products. Our service is guaranteed to be accurate and completed according to the specifications necessary by the ADA.



Agenda Item 5.6

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Two-Year Strategic Plan Quarterly Update
Prepared by: Jordan Foss, Management Analyst II

EXECUTIVE SUMMARY:

The City Council will receive a status update on the City's Two-Year Strategic Plan.

STAFF RECOMMENDATION:

Receive the report.

FINANCIAL IMPACT:

None.

DESCRIPTION:

The City Council adopted the City's Two-Year Strategic Plan on April 2, 2024. This Plan sets the overall direction for the City, guiding resources and setting specific objectives to drive City action. The Plan coincides with Fiscal Years 2024-25 and 2025-26.

This quarterly report represents the first of eight quarterly updates, covering the period of July 1, 2024 through September 30, 2024. Detailed updates for the strategies and objectives are provided in Attachment 1. Key highlights achieved during this reporting period are summarized below.

Strategy 1: Economic Development, Small Business Support, and Downtown Dublin

- The City Council received a presentation on the draft 2024 Economic Development Strategy Update and feedback was provided which will be incorporated into the final report.
- Public Works staff initiated an update of the Western Dublin Transportation Impact Fee.
- The Dublin Fallon 580 project was approved by the City Council.
- The City launched an online Citizen Self Service portal for business license management.
- The City partnered with Start-Up Tri-Valley and Patelco Credit Union in hosting the 2nd

Annual Tri-Valley AI Summit. The City also partnered with Start-Up Tri-Valley on a three-part AI series, with the second series focusing on "GenAI Attacks and Defenses."

Strategy 2: Public Safety

- Dublin Police Services installed seven directional pedestrian signs to guide Santa Rita Jail releasees to the Dublin/Pleasanton BART Station.
- Dublin Police Services, in partnership with the City's Information Technology division, installed a real-time camera trailer on the southwest corner of Arnold Road and Horizon Parkway to improve situational awareness to pedestrians and vehicles on Arnold Road.
- Dublin Police Services partnered with the Dublin Chamber of Commerce on the re-establishment of the Business Watch program to provide support to businesses in addressing commercial theft issues.

Strategy 3: Housing Inclusivity and Affordability

- The City Council approved amendments to the City's First-Time Home Buyer Loan Program, which aims to increase the use of the program and ensure compatibility with other loan programs.
- Staff continues to work with the developers of Francis Ranch and Dublin Centre on building permits to begin construction. Additionally, Staff continues to work with ARA/Hines on entitlements for the Dublin Commons project in Downtown Dublin.
- Eden Housing assembled the necessary financing to begin constructing the 113-unit Regional Street Senior Affordable Housing project.
- The City Council reserved $5 million for the Grace Pointe project at Dublin Centre. Staff is preparing the Affordable Housing Assistance Agreement which will be brought to the City Council for approval next quarter.

Strategy 4: Inclusive and Effective Government

- Parks and Community Services implemented adaptive swimming lessons and recreation swimming opportunities at The Wave. These programs offer modified and individualized curriculum for students and participants of all abilities to build critical water safety skills.
- Parks and Community Services has started installing communication boards at the larger City parks as well as at The Wave. The boards will help enhance communication, accessibility, and public awareness about special education.
- The City implemented a streamlined Human Servies Grant process for community benefit organizations within the Tri-Valley.
- Parks and Community Services conducted surveys, held a town hall meeting, and collected in-person feedback from the community at Splatter for the initial design process of two new neighborhood parks in the Francis Ranch development project.

Strategy 5: Long-Term Infrastructure and Sustainability Investments

- On September 19, 2024, the Alameda County Transportation Commission approved a $1.3

million amendment to the design contract for the Dublin Boulevard extension project.
- The City Council approved a low carbon concrete building code, which will become effective on January 1, 2025.
- Three street resurfacing projects began construction with the Cape Seal project bringing a new, more sustainable resurfacing treatment to the community.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) City of Dublin FY2024-2026 Strategic Plan Update (July 1, 2024 – September 30, 2024)

Strategy 1	Economic Development, Small Business Support, and Downtown Dublin
Objective A	**Support the implementation of the 2024 Economic Development Strategy, including pursuing growth industries.**
Update:	On September 17, 2024, the City Council provided feedback and direction on the draft update of the Economic Development Strategy. Staff worked with the Consultant to incorporate the City Council's feedback into the updated Strategy, which is scheduled to be presented to the City Council next quarter.
Objective B	**Work with ARA and Hines on the development of the Dublin Commons project, including associated public improvements, relocation of tenants, development agreement and appropriate incentives to effectuate physical changes to the area, as well as support for small businesses.**
Update:	Public Works initiated an update of the Western Dublin Transportation Impact Fee. The effort will integrate updates from the Downtown Dublin Specific Plan, Downtown Dublin Preferred Vision, and Dublin Bicycle and Pedestrian Plan.
Objective C	**Continue supporting the Fallon East Economic Development Zone and associated agreements that effectuate the construction of the Dublin Blvd. Extension.**
Update:	City Staff held bimonthly meetings with property owners located in the Fallon East Economic Development Zone. In addition, the City Council approved the Dublin Fallon 580 project. On September 19, 2024, the Alameda County Transportation Commission approved the amendment with BKF Engineers for an additional amount of $1.3 million for the preparation of the plans, specifications, and estimates phase of the Dublin Boulevard extension project. This will allow the design phase of the project to resume following Caltrans approval of the amendment.
Objective D	**Continue to evaluate and implement small business programs that provide financial assistance, business development, permit processing, and support services to the community.**
Update:	A recent key initiative was the launch of the Citizen Self Service portal, designed to simplify business license management for local businesses. The City has been actively involved in several events and grand openings, including Biryani Spot, Dublin Technology Center, Dublin Infiniti, and Boba & More. The Business Anniversary Reception recognized 88 businesses, while the Small Business Night at the Farmers' Market provided additional opportunities for more than 20 small businesses to connect with community members and other local entrepreneurs. In addition, the City partnered with Start-Up Tri-Valley and Patelco Credit Union to host the 2nd Annual Tri-Valley AI Summit with more than 150 attendees. Separately, the City collaborated with Startup Tri-Valley to organize the "GenAI Attacks and Defenses" event at the Dublin Technology Center, which attracted 52 attendees. The City's small business support programs continue to make a significant impact, assisting more than 35 businesses through the City's concierge services. Additionally, the small business navigator program helped three businesses with five marketing and business planning projects, demonstrating the City's ongoing commitment to fostering growth and success for local enterprises. Two small business spotlights were released during this time featuring Ducky Wash Laundromat and BodyBar Pilates. Parks and Community Services staff has developed a new component within the People of the Parks program: the Clean and Green Business initiative, which was introduced at Small Business

	Night. This initiative aims to promote cleanliness and good standing among local businesses, encouraging their active participation in the City's broader Clean and Green initiative.

Strategy 2	Public Safety
Objective A	**Work with County officials on Santa Rita Jail release procedures and services to improve the safety of adjacent neighborhoods.**
Update:	Dublin Police Services (DPS) has collaborated with the City of Dublin to install seven directional pedestrian signs to guide Santa Rita Jail (SRJ) releasees to the Dublin/Pleasanton BART station along Arnold Road. This signage aims to provide a clear pathway for SRJ releasees. DPS partnered with the City of Dublin Information Technology division to position a trailer with real-time boom cameras at the southwest corner of Arnold Road and Horizon Parkway. This has provided situational awareness to the pedestrians and vehicles along Arnold Road. Police Chief Nate Schmidt held Zoom meetings with the City Attorney's Office, the City of Oakland ROOTs community-based program, SRJ Command Staff, and the Dublin Mayor to discuss various issues related to SRJ release procedures. Further meetings are planned, including discussions on potential locations for citing releasees in various parts of the county.
Objective B	**Continue to invest in public safety technology and programs that advance proactive, community policing and protect citizens and law enforcement.**
Update:	DPS has been diligently negotiating with the Flock Safety Platform to update the City of Dublin's Situational Cameras (SitCams) and Automated License Plate Recognition (ALPRs). Once approved, DPS will move forward with the installation of 83 new cameras: 60 SitCams and 23 ALPRs in strategic locations throughout the city. The DPS Investigation Bureau has secured funding through the Internal Services Fund (ISF) to purchase a large-scale forensic computer for conducting analysis and evidence retrieval from digital information using the Cellebrite hardware and software platform. Multiple DPS Detectives will attend the required training. Upon the completion of the training, DPS will be purchasing the Cellebrite Platform using asset forfeiture funds.
Objective C	**Establish a Business Watch program to collaboratively address commercial theft.**
Update:	DPS Crime Prevention Unit (CPU) met with the Dublin Chamber of Commerce to present material and ideas to re-establish a Business Watch program. Through the month of July, the DPS CPU and Investigative Services Unit (ISU) spoke with and coordinated an organized retail crime operation with Target and Dicks Sporting Goods as an enforcement aspect of the Business Watch program. Through various meetings discussing current trends in theft and ways to deter theft from occurring, DPS planned an operation which resulted in multiple retail theft related arrests. In the month of August, DPS CPU contacted all major vehicle dealerships within Dublin to discuss Business Watch, and to acquire notarized open-ended complaints. DPS CPU also began contacting property owners for all major shopping centers to discuss Business Watch and again acquire notarized open-ended complaints. On August 22, 2024, DPS CPU met with Ross corporate management and loss prevention to discuss future opportunities to collaborate and support one another. Additionally, DPS CPU held an in person and virtual Business Watch meeting at the Dublin Chamber of Commerce. 50+ businesses registered for the event but only four attended. DPS CPU discussed how to improve the physical security of a business, how to deter theft, best hiring and training practices, and general observational safety. In September, DPS CPU, and ISU collaborated to plan a Local Business Safety Fair, featuring training from both CPU and ISU, commercial security company vendors (locks, cameras, alarms),

	and are working with local businesses to provide food for the event (business outreach). This event is scheduled to be held next quarter. Also in September, DPS CPU visited (in person) with managers of most businesses in the following shopping centers. Discussions were centered around the Business Watch program and the upcoming Local Business Safety Fair: • Almond Plaza • Shamrock Village • Dublin Plaza Center • Dublin Place Shopping Center • Hacienda Crossings • Grafton Station Shopping Center • Fallon Gateway Shopping Center
Objective D	**Work with Alameda County Fire on upgrades to fire stations to improve safety and efficiency of operations.**
Update:	Alameda County Fire Department solicited bids for a Fire Station Alerting System Installation project. The project proposes to install station alerting systems at 37 fire stations, including City of Dublin Fire Stations 16, 17, and 18.
Objective E	**Develop a more comprehensive security infrastructure for City facilities, including video surveillance, building access and improvements, and alarm systems.**
Update:	A multi-departmental effort has begun to create a comprehensive security policy that identifies and addresses gaps in the City's current physical access points. Situational cameras continue to be added to all City facilities in strategic locations.

Strategy 3	**Housing Inclusivity and Affordability**
Objective A	**Implement the goals, policies, and programs in the 2023-2031 Housing Element.**
Update:	The City's Inclusionary Zoning Regulations, Affordable Housing In-Lieu, and Commercial Linkage Fee have been reviewed and updated in accordance with the Housing Element (Program B.4 & B.5). The City's First-Time Home Buyer Loan Program has been reviewed and updated in accordance with the requirements of the Housing Element (Program E.7). Staff is working with ARA/Hines on a proposed high-density mixed-use development project Downtown (Program B.1). Staff is also preparing additional policy amendments related to various Housing Element programs for consideration by the Planning Commission and City Council. These amendments are anticipated to be presented next quarter.
Objective B	**Support efforts to produce housing affordable at all levels of income.**
Update:	Staff is working with the developers of Francis Ranch and Dublin Centre to obtain their building permits and commence construction. Staff is also working with ARA/Hines on entitlements for their high-density mixed-use development in Downtown Dublin. Additionally, staff is working with Eden Housing on their financing and building permits for the 113-unit Regional Street Senior Affordable Housing development, and with the Related Company to submit a building permit application for the first phase of their 300-unit Amador Station affordable housing development.
Objective C	**Support programs that facilitate homeownership such as the First-Time Home Buyer Loan Program.**
Update:	Staff prepared amendments to the City's First-Time Homebuyer Loan Program. The amendments are intended to increase the use of the program and to ensure it is compatible with other loan programs. This includes lowering the interest rate and downpayment, increasing the maximum loan amount, and allowing loan subordination.
Objective D	**Support development of housing types to support essential workers, younger buyers, and seniors.**
Update:	Eden Housing has assembled all the financing necessary to move forward with constructing their 113-unit Regional Street Senior Affordable Housing project. The project will be located at the corner of Regional Street and St. Patrick Way. Staff is working with Eden on their Plan of

	Financing and bond financing through the California Municipal Finance Authority. It is anticipated the City Council will consider their Plan of Financing next quarter. Staff is also continuing to work with Landsea Homes on the Dublin Centre project which includes entry level townhomes.
Objective E	**Support efforts to address housing for special needs communities.**
Update:	The City Council reserved $5 million for the Grace Pointe project at Dublin Centre. Staff is working with the developer of that project, SAHA/Sunflower Hill, to prepare the Affordable Housing Assistance Agreement which will allocate this funding to the project. It is anticipated that the City Council will consider the agreement next quarter. As part of the annual Human Services Grant Program, Sunflower Hill and Community Resources for Independent Living were awarded grant funding. Effective July 1, 2024, for FY2024-25, approximately $25,000 was awarded to support programs and services related to housing for special needs communities.

Strategy 4	**Inclusive and Effective Government**
Objective A	**Set reserves aside for major infrastructure investments which are key to the City's economic future.**
Update:	As part of the preliminary General Fund reserve designation, the City Council approved setting aside $4 million in the Downtown Public Improvement Reserve and $7 million in the Dublin Boulevard extension Advance Reserve. Additionally, staff will be recommending adding additional funds to reserves dedicated for future infrastructure projects, as part of the FY2023-24 Yearend that will be brought to the City Council next quarter.
Objective B	**Develop policies and procedures to address transition to District-based elected officials.**
Update:	No update.
Objective C	**Implement DEI Action Plan and continue to use a diversity, equity, and inclusion lens in organizational development and programming.**
Update:	The Wave implemented adaptive swimming lessons and recreational swimming opportunities. The adaptive swim lesson offers a modified and individualized curriculum for students of all abilities to be able to learn critical water safety skills and build confidence in the water. Conducted in the natatorium (indoor pool), this lesson is the only class in the water to help reduce noise and over stimulation for students who may have specific sensory needs. Our adaptive recreation swimming opportunity, called Sensory Splash, is designed for individuals with special needs and their families to visit The Wave in a calm, sensory-friendly environment. Parks and Community Services (PCS) staff have begun the process of having communication boards installed in the larger parks and The Wave. These boards are crucial for enhancing communication, particularly for individuals with speech and language challenges, and serve to raise public awareness about special education. By promoting inclusion and facilitating social interactions among community members, we ensure linguistic accessibility, reducing the stress of verbal communication for all visitors. The Dublin Arts Center continues to prepare for its opening in 2025. Staff is working with instructors to develop a variety of new programs in the Spring season such as Lippan and Mandala art workshops, 3D art classes for youth and teens, youth ballet, and mandarin language classes. Recruitment of additional instructors will continue in preparation for the Dublin Arts Center's launch.
Objective D	**Conduct ongoing outreach and garner feedback on services and programs to meet the community's needs.**
Update:	Based on feedback received during the Human Services Needs Assessment process, staff has implemented significant changes to streamline the annual Human Services Grant process. These improvements, including a single/shared grant application with Livermore and Pleasanton, will

	ease the application process for community benefit organizations in the Tri-Valley applying for Human Services grants. Staff conducted a quarterly survey to gather feedback from participants in recreation programs. This input is used to evaluate programs and ensure they meet the evolving needs of the community. To actively engage the community in the initial designing process for two new neighborhood parks in the Francis Ranch development, PCS collected more than 260 survey responses from the community, which provided valuable input on park features, amenities, and themes. A virtual town hall meeting was held in early September to discuss survey results, feedback from the community, and next steps. In addition, staff collected in-person feedback from the community during the Splatter event, where staff showcased the possible features, designs, and themes of both parks. Finally, a second survey was made available in late September for final community feedback on park designs and themes.
Objective E	**Evaluate ways to increase transparency in finance, policing, and development and infrastructure projects.**
Update:	Staff is working with ClearGov to develop an online and digital Capital Improvement Program book. ClearGov is the software tool used to create the digital budget book for Fiscal Years 2024-25 and 2025-26. Staff also created a webpage within the City's website to provide information about the City's Community Facilities Districts.
Objective F	**Continue proactive evaluation of policies and procedures and ensure cybersecurity infrastructure and practices are sufficient to protect the City's assets.**
Update:	The Information Services Division continues to engage with independent cybersecurity planning consultants to perform scans of the City's infrastructure, servers, and computer systems.

Strategy 5	**Long-Term Infrastructure and Sustainability Investments**
Objective A	**Continue to explore funding mechanisms for capital and ongoing maintenance needs.**
Update:	Public Works and the City's consultant, Townsend Public Affairs Inc., prepared and submitted a grant application for a tree restoration project through the California Natural Resources Agency, 2024 Environmental Enhancement and Mitigation program. Unfortunately, the application was not selected to continue in the competitive grant process.
Objective B	**Focus on major street improvements to assist in improving safety and traffic movement, including Village Parkway, Tassajara Road, and the Dublin Boulevard extension.**
Update:	On July 16, 2024, the City Council awarded the construction contract for the Citywide Bicycle and Pedestrian Improvements – Safe Routes to School (SR2S) Project. The SR2S project will include safety improvements at four intersections near schools. The Village Parkway Reconstruction and Complete Streets project continues with the design phase along with collaboration with Dublin San Ramon Services District (DSRSD) on their waterline replacement project along Village Parkway. The Right-of-Way Acquisition for the Tassajara Road Improvements – North Dublin Ranch Drive to Quarry Lane School has progressed with the East Bay Regional Parks District and the Beltran properties. Additionally, staff has been directed to move forward with the eminent domain action for the Roshan/Mayar property. On September 19, 2024, the Alameda County Transportation Commission approved a $1.3 million amendment to the design contract for the Dublin Boulevard extension project. The amendment allows the design phase to continue, including utility coordination with DSRSD, right-of-way appraisal services, and completion of the project plans.
Objective C	**Continue to make progress on the Climate Action Plan and sustainable operations.**

Update:	On July 16, 2024, the City Council received a report on the new Dublin Climate Challenge online platform. The Dublin Climate Challenge allows individuals, households, businesses, and community groups to learn and commit to various sustainable actions to lower their impact on climate change. On September 17, 2024, the City Council approved a low carbon concrete building code. Adoption of the building code implements Measure MM-2 of the Climate Action Plan 2030 and Beyond to reduce the embodied greenhouse gas emissions associated with building materials. The code will be effective on January 1, 2025.
Objective D	**Evaluate options for a sustainable pavement management program.**
Update:	Three street resurfacing projects (2024 Overlay, 2024 Slurry Seal, and 2024 Cape Seal) began construction. The 2024 Cape Seal is a new-to-Dublin resurfacing treatment consisting of an approximately ½" thick section of rubber chip seal overlaid by a slurry seal. It represents a middle-ground in both cost and durability between an asphalt overlay and a slurry seal.
Objective E	**Evaluate use of General Fund reserves to address asset replacement needs.**
Update:	The FY2024-26 Adopted Budget included a $2 million contribution from the General Fund to the Internal Services Fund to address future asset maintenance and replacement. Additionally, the budget included $4.5 million annually for pavement management, including an estimated $8.8 million in General Fund contributions. Staff will continue to address these needs as part of the annual reserve designation in future budgets.

Agenda Item 8.1

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Fiscal Year 2023-24 4th Quarter Financial Review and Additional Special Designations of General Fund Reserves
Prepared by: Jay Baksa, Finance Director

EXECUTIVE SUMMARY:

The City Council will receive a financial report on the fourth quarter of Fiscal Year 2023-24 and consider amendments to the General Fund reserve designations.

STAFF RECOMMENDATION:

Adopt the **Resolution** Authorizing Additional Special Designations of General Fund Reserves for Fiscal Year 2023-24 and confirm additional General Fund reserve designations as of June 30, 2024.

FINANCIAL IMPACT:

City Council confirmation of General Fund reserve designations will not alter amounts received or spent but will allow Staff to close the Fiscal Year 2023-24 financial books.

Total General Fund reserves are projected at $286.2 million as of June 30, 2024, with $51.1 million in the unassigned cash flow reserve, representing 5.6 months of the Fiscal Year 2024-25 Adopted General Fund Budget.

DESCRIPTION:

This report transmits the preliminary financial results of the Fiscal Year 2023-24 year-end, focusing on the General Fund. At this time, the numbers are essentially final, and though adjustments may happen as the audit is finalized, Staff does not expect substantial changes from the numbers in this report. The Annual Comprehensive Financial Report, which will be presented to the City Council at the second meeting in December, will contain the final audited results.

General Fund Overview

General Fund operating revenues totaled $134.5 million in Fiscal Year 2023-24, an increase of $9.7 million over the prior year. Total revenues, including an accounting adjustment of unrealized gains and transfers in, were $141.7 million, an increase of $19.9 million from the prior year. General Fund operating expenditures totaled $94.9 million, an increase of $6.4 million from the prior year. Total expenditures, including contributions to other funds, and transfers out, were $101.2 million, an increase of $5.3 million over the prior year. Contributions to capital projects, and other funds totaled $6.3 million, a decrease of $1.1 million from the prior year. The resulting impact from operations on total General Fund Reserves was an increase of $40.5 million, with the overall increase to General Fund reserves increasing $36.4 million from the prior year, after transferring funds from the Advance to Public Facility Fee Reserve to the Public Facility Fee Funds, as shown in Table 1. The year-over-year variances are explained in greater detail below.

Table 1: General Fund Summary

	FY 2022-23	FY 2023-24
Total Reserves, Beginning of Year	**$223,857,505**	**$249,736,608**
Revenues	124,787,119	134,468,344
Expenditures	(88,523,802)	(94,909,329)
Net Operating Budget Impact	**36,263,317**	**39,559,015**
Transfers In	109,014	227,051
Unrealized Gain/Loss/Adjustments	(3,053,407)	7,022,273
Transfers Out/Contribution to Other	(7,439,821)	(6,322,616)
Reserve Transfer to Public Facility Fee		(4,042,819)
Total Reserves, End of Year	**$249,736,608**	**$286,179,512**
Change from Prior Year		**$36,442,903**

Specific revenue and expenditure changes (+/-$250,000 compared to Fiscal Year 2022-23 actuals and to the Fiscal Year 2023-24 amended budget) are discussed below. The General Fund Summary (Attachment 2) presents this data by major category.

Revenues

Property Tax (+$2,911,518 vs. prior year / + $2,071,658 vs. budget)
Property Tax revenue in Fiscal Year 2023-24 increased along with a gain in net assessed valuation by $1.20 billion (5.7%) over the prior year. Current Property Tax revenue was $832k higher than the Amended Budget, due to stronger than anticipated property sales in the second part of the fiscal year. Supplemental Property Tax payments came in $608k higher than the Amended Budget due to development projects coming online.

Sales Tax (+$2,391,643 vs. prior year / +$1,297,807 vs. budget)
It was originally projected that overall consumer spending would slow in Fiscal Year 2023-24, with growth resuming the second half of Fiscal Year 2024-25. However, while globally there was some slowing, Dublin businesses remained strong, and sales activity continued to outpace forecasts. Additionally, a change was made by the state in how certain auto sales are reported,

resulting in the reallocation of $2.5 million in auto sales tax to Dublin in Fiscal Year 2023-24.

Development Revenue (-$1,730,994 vs. prior year / -$109,365 vs. budget)
This category includes revenues associated with permits for new development (primarily building permits) as well as tenant improvements on current structures. It also includes fees for City services, most typically zoning and plan checking services. The year-over-year decrease is due to a lower level of activity on development projects than in the previous year.

Other Taxes (+$450,879 vs. prior year / +$866,971 vs. budget)
The net increase in Other Taxes over the prior year and current year budget was related to an increase in the garbage franchise tax, driven primarily by an increase in construction activity. Additionally, the City had increases in both the electric and gas franchise fees, due to rate increases. Lastly, the City saw an increase in property transfer tax, which fluctuates with the real estate market. This increase was offset by a decrease in Cable Franchise fees, which has been steadily decreasing since 2016, as people have shifted toward alternate forms of television subscriptions.

Interest (+$3,136,384 vs. prior year / +$2,999,829 vs. budget)
Interest earnings came in significantly higher than the prior year, due to the Federal Reserve raising interest rates 11 times between March 2022 and July 2023. Overall, the Federal Funds Rate has stayed between 5.25% to 5.50% for the majority of Fiscal Year 2023-24. In addition to the higher interest rate, the City maintained a higher than anticipated General Fund cash balance that was the result of the operating budget's revenues exceeding expenditures by $39 million, as well as the timing of expenditures on capital projects. In Fiscal Year 2023-24 there was $51.2 million from the General Fund appropriated for Capital Improvement Projects, of which $4.3 million was spent. The combined effect resulted in interest revenue coming in $3.0 million higher than the Amended Budget.

Rental & Leases (-$21,777 vs. prior year / +$524,025, vs. budget)
The decrease in revenue from the prior year is due to an accounting change, as prescribed by the Governmental Accounting Standards Board, which requires a portion of revenue received from long-term leases to be classified as interest. Overall Rental & Leases revenue remained strong, with rental revenue reaching a new high in facility, field, and sports court rentals as well as picnic area rentals.

Charges for Services (+$1,030,064 vs. prior year / +$2,288,698 vs. budget)
The increase in Fiscal Year 2023-24 is attributed to a significant increase in Parks and Recreation programming revenue, specifically in aquatics and family programs. Overall Dublin Parks and Community Services programs continued to see high demand. In addition, the annual Santa Rita Services payment was approximately $550,000 higher than the prior year and $996,000 higher than the Amended Budget. This revenue is a reimbursement for the cost of Alameda County Fire's response to service calls from the Santa Rita Jail. A change in this program was implemented midyear in Fiscal Year 2023-24, which is anticipated to decrease the number of service calls and reimbursement revenue starting in Fiscal Year 2024-25.

Other Revenue (+$1,617,866 vs. prior year / +$2,551,513 vs. budget)

Many revenues in this category are non-recurring in nature, such as community benefit payments. The increase in Fiscal Year 2023-24 is due to the receipt of funds from a legal settlement, reimbursement of the City's annual fire services retiree health payment (the plan is super funded) and a community benefit payment from the Francis Ranch development. Additionally, the City received funds for the reimbursement of multiple insurance claims, including damage to police vehicles by third parties.

Expenditures

Salaries and Wages (+$782,752 vs. prior year / -$641,888 vs. budget)
Staffing costs came in lower than the Amended Budget due to a number of vacant positions and the timing of hiring. The increase from the prior fiscal year was due to revisions to the City's Salary Plan based on a classification study done as part of the Employee Process. The Employee Process is undertaken every five years and includes discussions between the City Manager and City employees regarding salaries and health and welfare benefits.

Benefits (-$280,988 vs. prior year / -$885,569 vs. budget)
Like salaries and wages, benefit costs came in lower than the budget because of vacant positions, and due to lower retirement costs for new employees who are in the new tier of the California Public Employees' Retirement System.

Services and Supplies (+$1,288,423 vs. prior year / -$713,474 vs. budget)
Expenditures for services and supplies in Fiscal Year 2023-24 were higher than the prior fiscal year due mainly to the increased cost of insurance provided through the City's Plan Joint Powers Agreement. Additionally, the City had increased expenses related to expanding recreation programming which had offsetting additional revenue as previously discussed. The City experienced savings from the Amended Budget due to lower-than-anticipated costs for repairs and maintenance of City-owned vehicles and facilities and for fuel.

Internal Service Funds (+$511,428 vs. prior year / +$252 vs. budget)
Internal Service Fund charges increased from the prior fiscal year mainly due to increased costs in the Information Technology Fund with the addition of new software, as well as an increase in Information Technology staffing costs, as the City continues to modernize services and expand security initiatives.

Utilities (-$395,070 vs. prior year / -$1,296,415 vs. budget)
Utilities were lower both from the prior year and from the Amended Budget. Staff had anticipated overall double-digit growth in utilities costs due to significant increases in electric and gas rates, however, year-over-year expenditures for both utilities decreased. The amount spent on water was also lower, as the region experienced a wet and rainy winter.

Contracted Services (+$4,002,010 vs. prior year / -$4,218,625 vs. budget)
Compared to the prior year, contract expenditures came in higher mainly due to planned increases in police services, fire services, and maintenance contract costs. In addition, police dispatch costs came in higher than anticipated, and other contracted services increased due to the continued expansion of recreation programs.

Capital Outlay (+$268,350 vs. prior year / -$79,704 vs. budget)
Capital Outlay expenditures are typically one-time in nature, and they vary from year to year. Fiscal Year 2023-24 expenditures were higher year-over-year, due to approximately $355,000 being carried over from the prior year to complete furniture and vehicle purchases that were in the process of being made at the year end.

Transfers Out for Capital Improvement Program (CIP) Projects
The General Fund transferred out $4.3 million in Fiscal Year 2023-24 for capital project expenditures; of that amount, $3.7 million was covered by Committed/Assigned Reserves. $46.9 million in unspent capital project budgets will be carried over to Fiscal Year 2024-25. Table 2 shows the actual expenditures on CIP projects funded by the General Fund.

Table 2: General Fund CIPs

Project	Amount
Committed/Assigned	
Citywide Signal Communication Upgrade	$773
Civic Center Rehabilitation	722,132
Cultural Arts Center	2,736,207
Dublin Irrigation System Upgrades	22,000
Electric Vehicle (EV) Charging Stations	20,456
Green Stormwater Infrastructure	60,130
IT Infrastructure Improvement	1,300
Maintenance Yard Facility	81
Public Safety Complex - Police Services Building	1,022
Village Parkway Reconstruction	156,543
Subtotal - Committed/Assigned	**$3,720,645**
Undesignated	
Alamo Creek Park & Assessment Dist. Fence Replacement	$3,994
Audio Visual System Upgrade	18,288
Citywide Energy Improvements	64,132
Downtown Dublin Street Grid Network	246
Downtown Dublin Town Square Park	122
Dublin Standard Plans Update	56,744
Financial System Replacement	141,275
Imagine Playground at Dublin Sports Grounds	5,546
Kolb Park Renovation	493
Marquee Signs	237
Municipal Fiber	246
Resiliency and Disaster Preparedness	302,161
Restrooms Replacement	6,441
Parks Playground Replacement	82

San Ramon Road Landscape Renovation	1,214
Situational Awareness Camera	750
Subtotal - Undesignated	**$601,971**
Total - General Fund Transfers Out to CIPs	**$4,322,616**

Reserves (Attachment 3)

In June 2024, based on estimated revenue and expenditures at that time, the City Council approved allocations to specific Committed and Assigned Reserves, shown in Table 3 below.

Table 3. Committed/Specific Assigned Reserve Recommendations

Reserve Category	June 2024 Approval	Q4 Adjustment	FY 23-24 Total Adjustment	Adjustment Type
Committed				
Downtown Public Improvement	$4,000,000	$10,000,000	**$14,000,000**	**Add**
Lease Revenue Bond Payment	1,000,000		**1,000,000**	**Add**
Assigned				
Dublin Blvd Extension Advance	7,000,000	10,000,000	**17,000,000**	**Add**
Fiscally Responsible Adjustment	(325,000)		**(325,000)**	**Transfer**
Contribution to ISF	(1,500,000)		**(1,500,000)**	**Transfer**
Village Parkway Reconstruction		5,000,000	**5,000,000**	**Add**

With the close of the financial books, Staff is recommending additional allocations as described below, which support specific objectives in the City's Two-Year Strategic Plan. This Staff Report also transmits a Resolution (Attachment 1) which confirms designations of additional Committed Reserves for Fiscal Year 2023-24, as City Council approval of Assigned Reserves is not necessary by resolution.

Committed Reserves

Downtown Public Improvement Reserve – Increase $10,000,000
With the additional designation, the total set aside for the Downtown Public Improvement Reserve will be $36.1 million.

Assigned Reserves

Dublin Boulevard Extension Advance – Increase $10,000,000
The reserve is a cash flow advance to the Eastern Dublin Transportation Impact Fee program and the General Fund will be reimbursed by the fee program. With the additional designation, the total set aside for the Dublin Boulevard Extension Advance Reserve will be $59.5 million.

Village Parkway Pavement Reconstruction Reserve – Increase $5,000,000
As presented to the City Council on February 20, 2024, the cost to reconstruct Village Parkway is estimated to be between $30 and $50 million. Staff recommends adding $5 million to the reserve, bringing the total to $20.7 million. Staff also anticipates a grant of $9.2 million from the State Transportation Improvement Program and is continuing to seek additional funding from grant sources for the project.

STRATEGIC PLAN INITIATIVE:

Strategy 1: Economic Development, Small Business Support, and Downtown Dublin
Objective B: Work with ARA and Hines on the development of the Dublin Commons project, including associated public improvements, relocation of tenants, development agreement and appropriate incentives to effectuate physical changes to the area, as well as support for small businesses.

Strategy 5: Long-Term Infrastructure and Sustainability Investments
Objective B: Focus on major street improvements to assist in improving safety and traffic movement, including Village Parkway, Tassajara Road, and Dublin Boulevard extension.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Resolution Authorizing Additional Special Designations of General Fund Reserves for Fiscal Year 2023-24
2) General Fund Summary FY 2023-24
3) General Fund Reserves Summary FY 2023-24

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

AUTHORIZING ADDITIONAL SPECIAL DESIGNATIONS OF GENERAL FUND RESERVES FOR FISCAL YEAR 2023-24

WHEREAS, the City's Fund Balance and Reserves Policy requires special fund balance allocations to be adopted by the City Council, and allows the City Council to take action prior to the end of the fiscal year to direct a specific assignment of the fund balance; and

WHEREAS, Staff reviewed updated information regarding fund balance and estimated one-time revenues during the preparation of the Fiscal Year 2024-25 and 2025-26 Budget; and

WHEREAS, the City Council approved allocations to specific Committed Reserves and Assigned Reserves on June 25, 2024, based on estimated revenues and expenditures at that time.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin does hereby make additional special allocation of the Fiscal Year 2023-24 year-end balance to the Committed fund balance as follows:

- Increase the Downtown Public Improvement reserve by $10,000,000

BE IT FURTHER RESOLVED that any net resources remaining after special designations will be left in the Unassigned (Available) Reserve.

PASSED, APPROVED AND ADOPTED this 5th day of November 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

GENERAL FUND SUMMARY - Q4 FY 2023-24

	Actual 2022-23	Adopted 2023-24	Amended 2023-24	Actual 2023-24
Revenues				
Property Tax	$59,056,139	59,896,000	59,896,000	61,967,658
Sales Tax	28,902,065	27,000,000	29,995,900	31,293,707
Sales Tax Reimbursements	(321,750)	(375,000)	(375,000)	(390,267)
Development Revenue	8,588,005	7,172,669	6,966,376	6,857,011
Transient Occupancy Tax	1,533,093	1,500,000	1,500,000	1,481,868
Other Taxes	7,196,591	6,780,500	6,780,500	7,647,471
Licenses & Permits	323,098	223,577	223,577	230,552
Fines & Penalties	80,117	50,000	50,000	98,693
Interest Earnings	5,363,445	2,510,000	5,500,000	8,499,829
Rentals and Leases	2,193,822	1,648,021	1,648,021	2,172,046
Intergovernmental	352,165	290,000	405,000	441,518
Charges for Services	8,648,315	7,389,682	7,389,682	9,678,380
Other Revenue	2,872,013	1,806,412	1,938,367	4,489,879
Subtotal Revenues - Operating	**$124,787,119**	**$115,891,861**	**$121,918,423**	**$134,468,344**
Transfers In	$109,014	$56,600	$129,582	$227,051
Unrealized Gains/Losses/Adjustments	(3,053,407)			7,022,273
Total Revenues	**$121,842,727**	**$115,948,461**	**$122,048,005**	**$141,717,668**
Expenditures				
Salaries & Wages	$12,725,756	$14,150,396	$14,150,396	$13,508,508
Benefits	4,781,703	5,386,283	5,386,283	4,500,714
Services & Supplies	4,543,179	6,238,992	6,545,077	5,831,603
Internal Service Fund Charges	4,932,571	5,443,747	5,443,747	5,443,999
Utilities	2,997,652	3,898,997	3,898,997	2,602,582
Contracted Services	57,001,245	62,778,423	65,221,880	61,003,255
Capital Outlay	194,558	120,625	542,612	462,908
Debt Service Payment	1,333,050	1,331,850	1,331,850	1,331,850
Contingency & Miscellaneous	14,088	223,910	223,910	223,910
Subtotal Expenditures - Operating	**$88,523,802**	**$99,573,224**	**$102,744,752**	**$94,909,329**
Operating Impact (REV-EXP)	**$36,263,317**	**$16,318,637**	**$19,173,670**	**$39,559,015**
Transfer Outs & Contributions to Other Funds				
Transfers Out (CIPs) - Com./Assig. Reserve	937,641	7,195,281	33,935,110	3,720,645
Transfers Out (CIPs) - Undesignated	1,018,802	10,734,612	17,272,644	601,971
Contribution to OPEB/PERS	3,460,000	1,000,000	1,000,000	-
Contribution to ISF & Other	2,023,378	2,000,000	2,000,000	2,000,000
Subtotal - Transfers Out & Contributions	**$7,439,821**	**$20,929,893**	**$54,207,754**	**$6,322,616**
Total Expenditures	**$95,963,623**	**$120,503,117**	**$156,952,506**	**$101,231,945**
GF Impact (Include CIP & Transfers)	**$25,879,104**	**($4,554,656)**	**($34,904,501)**	**$40,485,722**

Contracted Services Detail	Actual 2022-23	Adopted 2023-24	Amended 2023-24	Actual 2023-24
Police Services	$23,229,695	$24,835,923	$24,927,246	$25,092,500
Fire Services	15,223,132	16,313,430	16,313,430	16,226,491
Maintenance Services (MCE)	7,149,032	7,925,056	8,036,896	7,878,305
Development (CDD and PW)	3,360,003	3,606,108	3,992,132	3,050,460
Other Contracted Services	8,039,383	10,097,906	11,952,176	8,755,499
Total Contracted Services	**$57,001,245**	**$62,778,423**	**$65,221,880**	**$61,003,255**

FISCAL YEAR 2023-24 GENERAL FUND RESERVES SUMMARY

RESERVE DESCRIPTION	Actual 2022-23	Increase 2023-24	Decrease 2023-24	Net Change 2023-24	Projected 2023-24
Non-Spendable	$4,859	$49,849		$49,849	$54,709
Prepaid Expenses	4,859	49,849		49,849	54,709
Restricted	$4,324,132	$126,103		$126,103	$4,450,235
Cemetery Endowment	60,000				60,000
Developer Contribution - Downtown	1,490,000				1,490,000
Developer Contribution - Heritage Park	19,000				19,000
Developer Contribution - Nature Park	60,000				60,000
Section 115 Trust - Pension	1,945,132	126,103		126,103	2,071,235
Heritage Park Maintenance	750,000				750,000
Committed	$76,016,420	$15,000,000	($6,800,976)	$8,199,024	$84,215,443
Advance to Public Facility Fee	10,747,169		(4,042,819)	(4,042,819)	6,704,350
Downtown Public Improvement	22,139,587	14,000,000	(21,097)	13,978,903	36,118,491
Economic Stability	8,000,000				8,000,000
Emergency Communications	532,113				532,113
Fire Services Pension/OPEB	2,211,094				2,211,094
Innovations and New Opportunity	894,498				894,498
One-Time Initiative - Capital	1,918,620		(773)	(773)	1,917,848
One-Time Initiative - Operating	503,860				503,860
Public Safety Reserve	4,600,000				4,600,000
Specific Committed Reserves					
Contribution to Public Facility Fee	6,000,000				6,000,000
Cultural Arts Center (CIP)	7,139,197		(2,736,207)	(2,736,207)	4,402,990
Don Biddle Park (CIP)	675,193				675,193
Fallon Sports Park III Contingency	100,000				100,000
Lease Revenue Bond Payoff	7,000,000	1,000,000		1,000,000	8,000,000
Maintenance Facility (CIP)	55,089		(81)	(81)	55,008
Utility Undergrounding (CIP)	3,500,000				3,500,000
Assigned	$125,043,297	$39,851,345	($11,492,058)	$28,359,287	$153,402,584
Accrued Leave	1,301,506	216,917		216,917	1,518,423
Catastrophic Loss	17,714,064				17,714,064
CIP Carryovers	6,535,032	16,670,673	(6,535,032)	10,135,641	16,670,673
Fiscally Responsible Adjustment	325,000		(325,000)	(325,000)	0
Municipal Regional Permit	1,869,152		(60,130)	(60,130)	1,809,022
Non-Streets CIP Commitments	3,276,777		(23,291)	(23,291)	3,253,486
Operating Carryovers	2,014,571	963,754	(2,014,571)	(1,050,817)	963,754
Parks and Streets Contingency	201,270				201,270
Pension and OPEB	18,000,000				18,000,000
Relocate Parks Department	500,000				500,000
Service Continuity	3,150,000				3,150,000
Dublin Blvd Extension Advance	42,500,000	17,000,000		17,000,000	59,500,000
Specific Assigned Reserves					
ARPA Revenue Replacement	990,187				990,187
Climate Action Plan	2,823,760		(154,335)	(154,335)	2,669,424
Contribution to ISF	1,500,000		(1,500,000)	(1,500,000)	0
Façade Improvement Grants	429,972				429,972
Library Tenant Improvement	1,000,000				1,000,000
Civic Center Improvements (CIP)	3,010,829		(722,132)	(722,132)	2,288,697
Pavement Management	2,000,000				2,000,000
Public Safety Complex (CIP)	1,022		(1,022)	(1,022)	0
Village Parkway Pavement Reconstruction	15,900,156	5,000,000	(156,543)	4,843,457	20,743,613
Unassigned	$44,347,900	$14,250,215	($14,541,575)	($291,360)	$44,056,540
Unassigned-Unrealized Gains	(14,061,701)	7,022,273	0	7,022,273	(7,039,428)
Unassigned (Available)	58,409,602				51,095,968
TOTAL RESERVES	$249,736,608	$69,277,512	($32,834,609)	$36,442,903	$286,179,512

FY 2023-24 4th Quarter Financial Review and Additional Special Designation of General Fund Reserves

November 5, 2024



DUBLIN
CALIFORNIA

General Fund

- Revenues = $134.5 Million ($12.5 Million over budget)
- Expenditures = $94.9 Million ($7.8 Million under budget)
- Transfers Out = $6.3 Million

Table 1: General Fund Summary

	FY 2022-23	FY 2023-24
Total Reserves, Beginning of Year	**223,857,505**	**249,736,608**
Revenues	124,787,119	134,468,344
Expenditures	(88,523,802)	(94,909,329)
Net Operating Budget Impact	**36,263,317**	**39,559,015**
Transfers In	109,014	227,051
Unrealized Gain/Loss/Adjustments	(3,053,407)	7,022,273
Transfers Out/Contribution to Other	(7,439,821)	(6,322,616)
Reserve Transfer to Public Facility Fee		(4,042,819)
Total Reserves, End of Year	**249,736,608**	**286,179,512**
Change from Prior Year		**36,442,903**

GF Revenue Summary

Revenues –$12.5 Million over budget

- Property Tax (+$2.1 Million)
  - Assessed Value (AV) increase of $1.2 Billion (5.7%)
  - Strong Sales in Q3-Q4
  - Supplement Property Tax higher than budgeted
- Sales Tax (+$1.3 Million)
  - Sales remained stronger than forecasts
  - State reporting change of auto sales
- Other Taxes (+$0.9 Million)
  - Franchise Taxes
  - Property Transfer Taxes

GF Revenue Summary

Revenues –$12.5 Million over budget

- Interest Earnings (+$3.0 Million)
  - Rates (5.25% -5.50%)
  - Portfolio Market Yield Increase
  - Cash Balance
- Rental & Leases (+$0.5 Million)
  - Facilities/Fields
  - Sports Courts
  - Picnic Areas

GF Revenue Summary

Revenues –$12.5 Million over budget

- Charges for Services (+$2.3 Million)
  - Rec Programing (Aquatics)
  - Rec Programing (Family)
  - Santa Rita
- Other Revenue (+$2.5 Million)
  - Community Benefit Payment
  - Fire Retiree Health
  - Legal Settlement

Expenditure Summary

Expenditures – $7.8 Million Under Budget

- Salaries and Wages (-$0.6 Million)
  - Vacant Positions
  - Hiring Timing
- Benefits (-$0.9 Million)
  - Lower Retirement Tier
- Services and Supplies (-$0.7 Million)
  - Lower Repair and Maintenance Costs

Expenditure Summary

Expenditures – $7.8 Million Under Budget

- Utilities (-$1.3 Million)
  - Higher Rates Offset by Lower Utilization
- Contracted Services (-$4.2 Million)
  - Development Contracts

Transfers Out

- Total GF Transfers Out = $6.3 Million
  - Designated Reserves = $3.7 Million
  - Unassigned Reserves = $0.6 Million
  - Other (Pension/ISF) = $2.0 Million

Transfer Outs & Contributions to Other Funds	Amended 2023-24	Actual 2023-24	Difference
Transfers Out (CIPs) - Com./Assig. Reserve	33,935,110	3,720,645	30,214,465
Transfers Out (CIPs) - Undesignated	17,272,644	601,971	16,670,673
Contribution to OPEB/PERS	1,000,000	-	1,000,000
Contribution to ISF & Other	2,000,000	2,000,000	-
Subtotal - Transfers Out & Contributions	**$54,207,754**	**$6,322,616**	**$47,885,138**

GF Reserves

Recommendations - Based on Strategic Objectives

- Downtown Public Improvement Reserve
  - Increase $10 Million – New Balance = $36.1 Million
- Dublin Boulevard Extension Advance
  - Increase $10 Million – New Balance = $59.5 Million
- Village Parkway Pavement Reconstruction Reserve
  - Increase $5 Million – New Balance = $20.7 Million

GF Reserves

- Total Reserves = $286 Million
  - Includes GF Reserve Transfer to Public Facilities Fee of $4.042 Million
  - $51.1 Million Unassigned Cashflow Reserve
    - 5.6 months of operating expenses
    - Policy calls for 2-4 months

Staff Recommendations

- Adopt the **Resolution** Authorizing Additional Special Designations of General Fund Reserves for Fiscal Year 2023-24 and confirm additional General Fund reserve designations as of June 30, 2024.

Questions?

DUBLIN
CALIFORNIA

STAFF REPORT
CITY COUNCIL

DATE: November 5, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Letter of Intent Regarding the Allocation of Fallon Sports Park to Emerald High School Baseball and Softball
Prepared by: Colleen Tribby, City Manager

EXECUTIVE SUMMARY:

The City Council will consider a Letter of Intent between the City and the Dublin Unified School District (DUSD) to accommodate Emerald High School's baseball and softball teams for priority use of certain fields at Fallon Sports Park during the high school season. The arrangement will also require modifications to other City fields to provide sufficient facilities for other user groups.

STAFF RECOMMENDATION:

Direct Staff to issue a Letter of Intent to Dublin Unified School District (DUSD), committing to Emerald High School's priority use of the field space and affirming DUSD's role in making field modifications at Emerald Glen Park.

FINANCIAL IMPACT:

The cost of any modifications to City sports fields, including the addition of related storage containers, will be covered by Dublin Unified School District. The District will also pay the adopted user fees for the rental of Fallon Sports Park under the Public Agency user category. While this is lower than the fees paid by other user types that currently have some allocation of Fallon Sports Park, Staff expects the difference in total revenue to be negligible (an estimated decrease of $2,500).

DESCRIPTION:

Background
Emerald High School (EHS) opened its doors in fall 2024 for its first freshman and sophomore classes. In the prior year, EHS students shared the Dublin High School site, including sports facilities for its freshmen teams. The new EHS site has a gymnasium, football field, and track, but no baseball or softball fields. Staff has been in discussions with Dublin Unified School District

(DUSD) on the potential for EHS ball teams to utilize City fields during the high school season (March – May) while still allowing for adequate use of fields by other long-standing community groups, such as Dublin Little League.

Proposal

After evaluating several options and discussing them with DUSD, Dublin Little League, and internally, Staff determined that the most sensible option is to allow EHS to utilize one location, Fallon Sports Park (FSP), for all their ball teams during the high school season, and modify other City fields to satisfy the needs of user groups that would be moved out of FSP during that time.

During the season (March – May), EHS Baseball would have priority use of FSP Field G on a 90-foot diamond, and EHS Softball would have priority use of FSP Fields A and B on 60-foot diamonds (see Diagram 1 below). The infrastructure at FSP already conforms to standards set by the California Interscholastic Federation for high school play. Moreover, the lights at FSP will allow for evening and night play.

Diagram 1 – Fallon Sports Park Layout



Currently, the primary user of FSP Fields A, B, and G from March through May is Dublin Little League for its baseball teams and rapidly growing softball program. The baseball fields are also utilized by outside groups (primarily youth travel teams), and the softball fields are also allocated to adult softball teams. With EHS housed at the three FSP fields, the other user groups would need to be moved. Accordingly, Staff evaluated City fields best suited for a 90-foot baseball diamond and two 60-foot softball fields.

The other parks in the community that have multiple sports fields are Dublin Sports Grounds and Emerald Glen Park. Dublin Sports Grounds has a lighted, 70-foot baseball diamond in addition to six other baseball diamonds, all heavily utilized by Dublin Little League. Modifying these fields is not ideal, as their layouts are not conducive to change without reducing the number of fields in the

same footprint.

Emerald Glen has three softball-size (60-foot) diamonds, none of which are currently set up for regulation softball play as they have grass infields and baseball mounds, among other things (Fields A, B, and C in Diagram 2 below). Fields A and C are currently used primarily by Dublin Little League, while Field B is typically allocated to other groups but is underutilized compared to others. Moving the user groups to Emerald Glen is the preferred option, as the layout allows for field changes, there are already softball-size diamonds there, and there is capacity to allocate more users to Field B if converted to a larger diamond dedicated to baseball.

Diagram 2 – Emerald Glen Park Layout



Specifically, the changes needed at Emerald Glen would include, but not be limited to, the following:

- Modify Fields A and C to true softball fields, including removing the grass infield and mound, installing a dome backstop if needed, providing storage, providing a portable mound, and providing an adequate mechanism at Field C for scoring. Baseball teams can also continue to use these fields as well, but they will primarily allow for regulation softball games.
- Modify Field B to a 90-foot baseball diamond, including realigning the baseline, providing back netting as necessary, providing storage, and providing an adequate mechanism for scoring.

Staff's desire is that in addition to funding the field modifications, DUSD manage the project, including bidding and construction, while the City would issue an encroachment permit and perform inspections of the work.

Letter of Intent and Timing

The attached Letter of Intent summarizes the City's commitment and expectations for this arrangement, which allows DUSD to begin planning for the work. The parties have agreed that the work would be done prior to the start of the 2025-26 high school ball season and without significant disruption to other community groups' use of Emerald Glen. As for the upcoming ball season, the City can accommodate EHS baseball and softball teams (one team for each sport) without any modifications. This has also been agreed to by Dublin Little League, who will redistribute their teams to other facilities this season.

Next Steps

If the City Council approves the Letter of Intent, Staff will work with DUSD on a definitive agreement that preserves EHS's use of Fallon Sports Park and describes in detail the work to be done at Emerald Glen. In the meantime, Staff will continue working collaboratively with all user groups to allocate field space according to our rental policies and procedures.

Finally, Staff also intends to re-open the long-standing joint-use agreements in place between the City and DUSD, to ensure that both agencies have full access to each other's facilities for recreational and enrichment purposes. This includes revisiting the City's needs for programs like Afterschool Recreation and Junior Warriors.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Letter of Intent

DUBLIN
CALIFORNIA
THE NEW
AMERICAN
BACKYARD

November 5, 2024

Chris Funk
Superintendent
Dublin Unified School District
7471 Larkdale Ave
Dublin, CA 94568

Re: Field Usage for Emerald High School

Dear Chris,

This Letter of Intent ("LOI") is provided to Dublin Unified School District ("DUSD") as the commitment of the City of Dublin ("City") to allow priority use of certain fields at Fallon Sports Park by Emerald High School's baseball and softball teams, beginning with the 2025-26 high school season. This LOI represents the current understanding of the parties, and the parties will work in good faith to negotiate and present to their respective legislative bodies a definitive agreement incorporating the terms and conditions outlined in this LOI.

The City understands that any such arrangement needs to be long-term in nature as part of building and maintaining a successful athletic program at Emerald High School, and the City agrees to prioritize, on an annual basis, DUSD's needs of Fallon Sports Park during the high school baseball and softball seasons to achieve that. The City expects that DUSD will make field reservations through the normal process followed by all user groups, including paying field usage fees set forth in the City's Master Fee Schedule.

The allocation of field space to Emerald High School requires modifications to other City fields at Emerald Glen Park ("EGP") to allow for community user groups to move out of Fallon Sports Park. The City's commitment is based on DUSD's intention to pay for those modifications. The required changes include, but are not limited to:

- Modifying EGP Fields A and C to regulation softball fields.
- Modifying EGP Field B to a regulation 90-foot baseball diamond.

Furthermore, the parties agree that they will in conjunction with the definitive agreement review and update all joint-use agreements between the parties to update each agency's facilities inventory and ensure that all facilities are made appropriately available and prioritized for use by either agency.

If the terms and conditions described above are acceptable, please indicate your agreement by signing below and returning a copy of this LOI.

City Council
925.833.6650
City Manager
925.833.6650
Community Development
925.833.6610
Economic Development
925.833.6650
Finance/IT
925.833.6640
Fire Prevention
925.833.6606
Human Resources
925.833.6605
Parks & Community Services
925.833.6645
Police
925.833.6670
Public Works
925.833.6630

100 Civic Plaza
Dublin, CA 94568
P 925.833.6650
F 925.833.6651
www.dublin.ca.gov

We look forward to working with you in enhancing the recreational and enrichment opportunities for DUSD families as well as the entire community.

Sincerely,



Colleen Tribby
City Manager

AGREED AND ACCEPTED:

DUBLIN UNIFIED SCHOOL DISTRICT

_____
Chris Funk, Superintendent