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, December 3, 2024

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

REGULAR MEETING 7:00 PM

Pursuant to Government Code §54953(b), this meeting will include the following teleconference location:

- *Councilmember Qaadri will be attending the Regular Meeting via teleconference from Aria Resort and Hotel – Business Center, 3730 Las Vegas Blvd South, Las Vegas, NV 89159*

The public shall have the opportunity to address the City Council at this teleconference location pursuant to Government Code Section §54954.3. All votes during the teleconference session will be conducted by roll call vote. The teleconference location is accessible to the public and the agenda will be posted at the teleconference location 72 hours before the meeting.

Additional Meeting Procedures

This City Council meeting will be broadcast live on Comcast T.V. channel 28 beginning at 7:00 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, December 3, 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 2023 Inside Dublin Participants

The City Council will recognize the participants of the City's 2024 Inside Dublin program.

STAFF RECOMMENDATION:

Recognize the 2024 Inside Dublin participants.

Staff Report

3.2 Presentation of Banners to 2024 Military Banner Program Honorees

The City Council will present the 2024 Military Banner Program honorees with their individual banners. The Military Banner Program honors active-duty military personnel and veterans that reside in Dublin, have immediate family residing in Dublin, or have had a long-term, positive impact on the Dublin community.

STAFF RECOMMENDATION:

Present the banners.

Staff Report

Attachment 1 - 2024 Military Banner Program Walking Tour Map

3.2 - PowerPoint Presentation

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 November 19, 2024 Regular City Council Meeting Minutes

The City Council will consider approval of the minutes of the November 19, 2024 Regular City Council Meeting.

STAFF RECOMMENDATION:

Approve the minutes of the November 19, 2024 Regular City Council Meeting.

Staff Report

Attachment 1 - November 19, 2024 Regular City Council Meeting Minutes

5.2 Amendment to the Agreement with Advanced Integrated Pest Management for Pest Control Services

The City Council will consider approving an amendment to the agreement with Advanced Integrated Pest Management for pest control services at City Facilities and on Parks Reserve Forces Training Area (Camp Parks).

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with Advanced Integrated Pest Management for Pest Control Services.

Staff Report

Attachment 1 - Resolution Approving an Amendment to the Agreement with Advanced Integrated Pest Management for Pest Control Services

Attachment 2 - Exhibit A to the Resolution - First Amendment to Contractor Services Agreement with Advanced Integrated Pest Management

Attachment 3 - Contractor Services Agreement with Advanced Integrated Pest Management

5.3 Amendment to the Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance

The City Council will consider approving an amendment to the agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance.

Staff Report

Attachment 1 - Resolution Approving an Amendment to the Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance

Attachment 2 - Exhibit A to Resolution - First Amendment to the Consulting Services Agreement with EOA, Inc.

Attachment 3 - Consulting Services Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance

5.4 Amendment to the Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services

The City Council will consider approving an amendment to the agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services.

Staff Report

Attachment 1 - Resolution Approving an Amendment to the Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services

Attachment 2 - Exhibit A to the Resolution - Amendment to the Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services

Attachment 3 - Consulting Services Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services

5.5 Ordinance Levying Special Taxes Within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)

The City Council will consider waiving the second reading and adopting the Ordinance levying a special tax within City of Dublin Community Facilities District (CFD) No. 2024-1 (Dublin Centre). On November 19, 2024, the City Council took actions to form the Dublin Centre CFD, which included introducing an Ordinance to levy special taxes within Dublin Centre and set the date of December 3, 2024 for the second reading.

STAFF RECOMMENDATION:

Waive the second reading and adopt the **Ordinance** Levying Special Taxes Within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).

Staff Report

Attachment 1 - Ordinance Levying Special Taxes within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)

5.6 Amendment to the Signing Authority of the Local Housing Trust Fund Grant for the Regional Street Senior Affordable Housing and Amador Station Affordable Housing Projects

The City Council will consider resolutions authorizing the City Manager to receive and act as the trustee/manager for up to $3,333,333 in grant funds from the California Department of Housing and Community Development (HCD) for both the Regional Street Senior Affordable Housing project and the Amador Station Affordable Housing project. HCD has requested the City adopt new resolutions with a general designation of authority to the City Manager in order to access the award.

STAFF RECOMMENDATION:

Adopt the **Resolution** Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Regional Street Senior Affordable Housing Project, and the **Resolution** Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Amador Station Project.

Staff Report

Attachment 1 - Resolution Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Regional Street Senior Affordable Housing Project

Attachment 2 - Resolution Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Amador Station Project

5.7 Amendment to the Affordable Housing Assistance Agreement for the Regional Street Senior Affordable Housing Project (PLPA-2021-00035)

The City Council will consider approving an amendment to the terms of the Affordable Housing Assistance Agreement for Eden Housing's Regional Street Senior Affordable Housing Project. The proposed amendment would reduce the interest rate on the Local Housing Trust Fund loan from 3% to 1%. This loan is funded by a grant the City received from the California Department of Housing and Community Development. The loan will help fund construction of the 113 unit very-low- and low-income affordable housing project located at 6541-6543 Regional Street.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Terms of the Affordable Housing Assistance Agreement Between the City of Dublin and Corona/Ely Ranch, Inc.

Staff Report

Attachment 1 - Resolution Approving an Amendment to the Terms of the Affordable Housing Assistance Agreement Between the City of Dublin and Corona/Ely Ranch, Inc.

Attachment 2 - Affordable Housing Assistance Agreement between the City of Dublin and Corona/Ely Ranch, Inc.

6. PUBLIC HEARING

6.1 Assembly Bill 562 (2013) Five-Year Outcome Report on Economic Development Subsidy Provided to Bicentennial Square Partners

The City Council will hold a required public hearing to receive comments on the outcome of the first five-year period of the economic development business incentive, Sales Tax Reimbursement Program, with Bicentennial Square Partners for the retention of Graybar Electric Company.

STAFF RECOMMENDATION:

Conduct the public hearing, deliberate, and accept the report.

Staff Report

Attachment 1 - 2024 Outcome Report on Economic Development Subsidy Provided to Bicentennial Square Partners

Item 6.1 - PowerPoint Presentation

7. UNFINISHED BUSINESS – None.

8. NEW BUSINESS

8.1 Informational Report on Accessory Dwelling Units

The City Council will receive an informational report on accessory dwelling units, including use of the City's permit-ready prototype plans, impact and building permit fee waivers, and production.

STAFF RECOMMENDATION:

Receive the report.

Staff Report
Item 8.1 - PowerPoint Presentation

8.2 Francis Ranch Parks – Conceptual Designs

The City Council will consider the conceptual plans for each of the two 5.5-acre Francis Ranch neighborhood parks.

STAFF RECOMMENDATION:

Receive the presentation and approve the conceptual designs for the Francis Ranch neighborhood parks.

Staff Report
Attachment 1 - Francis Ranch Parks Concept Plans
Attachment 2 - Community Survey Results
Attachment 3 - Design Survey Results
Item 8.2 - PowerPoint Presentation

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: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Recognition of 2024 Inside Dublin Participants
Prepared by: Cierra Fabrigas, Executive Aide

EXECUTIVE SUMMARY:

The City Council will recognize the participants of the City's 2024 Inside Dublin program.

STAFF RECOMMENDATION:

Recognize the 2024 Inside Dublin participants.

FINANCIAL IMPACT:

None.

DESCRIPTION:

Inside Dublin was designed to inform participants about the issues facing the community and to encourage community involvement at all levels. This year's program included presentations on the City's history and governance, public safety, development and capital projects, parks and community services, general operations, and local agency partnerships.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

None.

Agenda Item 3.2

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Presentation of Banners to 2024 Military Banner Program Honorees
Prepared by: Rhonda Franklin, Management Analyst II

EXECUTIVE SUMMARY:

The City Council will present the 2024 Military Banner Program honorees with their individual banners. The Military Banner Program honors active-duty military personnel and veterans that reside in Dublin, have immediate family residing in Dublin, or have had a long-term, positive impact on the Dublin community.

STAFF RECOMMENDATION:

Present the banners.

FINANCIAL IMPACT:

None.

DESCRIPTION:

On January 9, 2018, the City Council adopted Resolution No. 07-18 approving the creation of a Military Banner Program to honor active-duty military personnel and military veterans that reside in or have immediate family residing in the City of Dublin, or have had a long-term, positive impact on the Dublin community. The Program allows for someone to sponsor a banner to honor an active-duty member or veteran. The banners feature a photo of the honoree along with their name, rank, and branch of service.

The program has run annually since 2018 but was suspended in 2020 due to COVID-19. In this sixth year of the Program, nine military personnel/veterans were honored. The banners were located on City streetlight poles along Dougherty Road between Scarlett Drive and Amador Valley Boulevard, in the vicinity of the Parks Reserve Forces Training Area. The banners were displayed between Memorial Day and Veterans Day (May through November) 2024.

This year's honorees were:

- Angelica Talosig Smith, U.S. Navy (Veteran)
- Donald V. Colley, U.S. Navy (Retired)
- Dylan E. Wright, U.S. Army (Active Duty)
- George Habit, U.S. Army (Veteran)
- Jeff Knobbe, U.S. Army (Veteran)
- Jerome R. Manuel, Jr., U.S. Coast Guard (Active Duty)
- Marisol A. Chalas, U.S. Army (Active Duty)
- Michael E. Mark, U.S. Army (Retired)
- William Brown Chew, U.S. Army Reserves (Retired)

Banner honorees and sponsors will attend the City Council meeting to receive their banners.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted. Banner honorees and sponsors were invited to attend the meeting, and a copy of this Staff Report was sent to the banner sponsors.

ATTACHMENTS:

1) 2024 Military Banner Program Walking Tour Map

DUBLIN
CALIFORNIA

2024 MILITARY BANNER PROGRAM WALKING TOUR

The Military Banner program is an annual street banner display created by the Dublin City Council to honor local veterans and active duty members of the U.S. Armed Forces.

Community members may sponsor an individual banner honoring a service member with a connection to Dublin.

In 2024, the banners will be on display along Dougherty Road between Memorial Day and Veterans Day.

If you have questions about Dublin's Military Banner Program, or would like to be kept informed about sponsorship opportunities next year, please email banners@dublin.ca.gov or call (925) 833-6650.

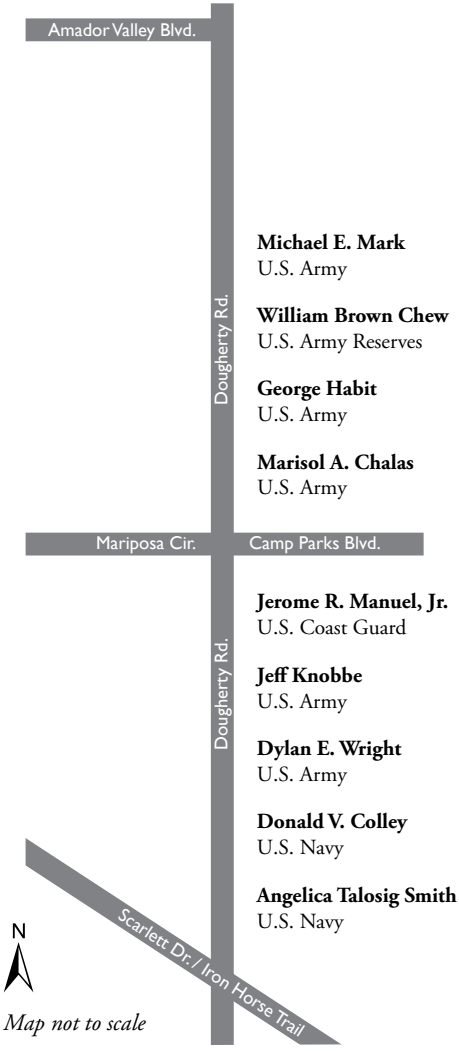
Use the camera on your smartphone to access a digital copy of the Walking Tour Map!

HONORING THOSE WHO SERVE

DUBLIN
CALIFORNIA

2024 MILITARY BANNER PROGRAM WALKING TOUR

Walk along Dougherty Road between Amador Valley Boulevard and Scarlett Drive to see the 2024 Banner Program honorees. Roundtrip walk is approximately one mile.



Michael E. Mark
U.S. Army

William Brown Chew
U.S. Army Reserves

George Habit
U.S. Army

Marisol A. Chalas
U.S. Army

Jerome R. Manuel, Jr.
U.S. Coast Guard

Jeff Knobbe
U.S. Army

Dylan E. Wright
U.S. Army

Donald V. Colley
U.S. Navy

Angelica Talosig Smith
U.S. Navy

Map not to scale

Presentation of Banners to 2024 Military Program Honorees

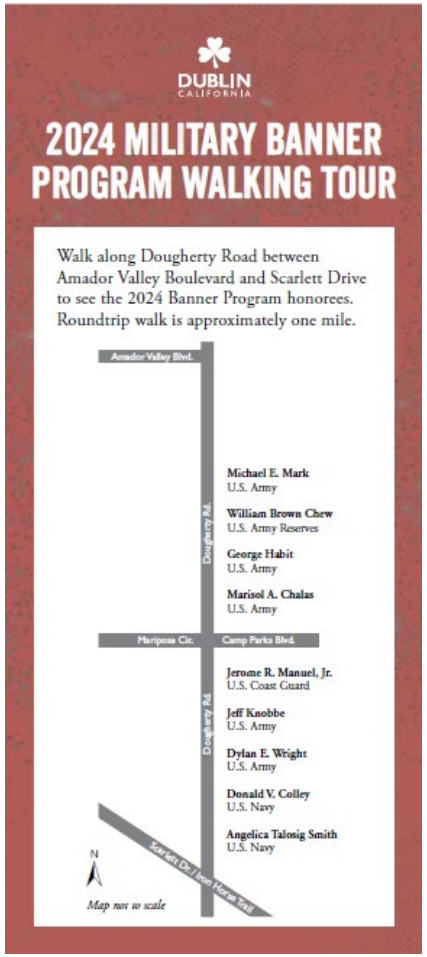
December 3, 2024



DUBLIN
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Presentation of Military Banners

- Program started in 2018.
- 73 participants to-date.
- Banners displayed Memorial Day through Veterans Day.
- Along Dougherty Rd. between Scarlett Dr. and Amador Valley Blvd.



Presentation of Military Banners, 2



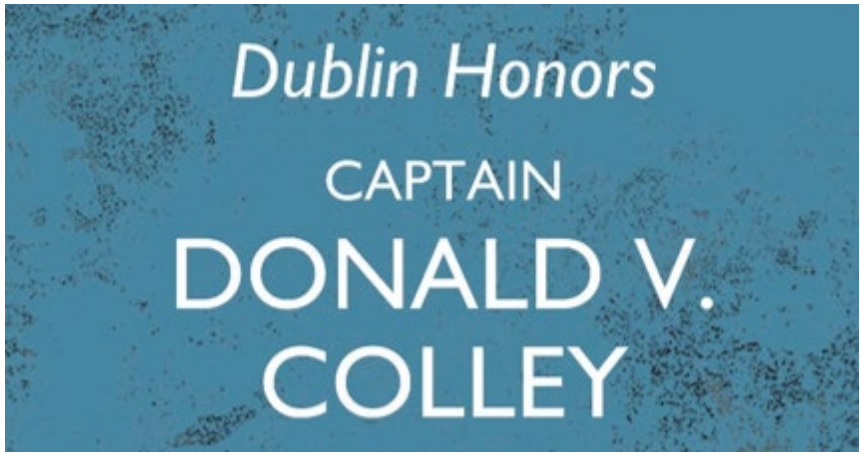
- Eligibility requirements include:
  - Active Duty or Veteran.
  - Current Dublin resident.
  - Immediate family member of Dublin resident.
  - Former Dublin resident with demonstrated positive impact on the Dublin community.
- Applications are currently open for the 2025 program at dublin.ca.gov/militarybanners.

Presentation of Military Banners, 3





Presentation of Military Banners, 4







Presentation of Military Banners, 5







Presentation of Military Banners, 6







Presentation of Military Banners, 7







Presentation of Military Banners, 8







Presentation of Military Banners, 9







Presentation of Military Banners, 10





Presentation of Military Banners, I I





Conclusion

Thank you

to the honorees

for their service!

Agenda Item 5.1

DUBLIN
CALIFORNIA

STAFF REPORT

CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Approval of November 19, 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 November 19, 2024 Regular City Council Meeting.

STAFF RECOMMENDATION:

Approve the minutes of the November 19, 2024 Regular City Council Meeting.

FINANCIAL IMPACT:

None.

DESCRIPTION:

The City Council will consider approval of the minutes of the November 19, 2024 Regular City Council Meeting.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) November 19, 2024 Regular City Council Meeting Minutes

MINUTES OF THE CITY COUNCIL OF THE CITY OF DUBLIN

Regular Meeting: November 19, 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

Pursuant to Government Code §54953(b), this meeting included the following teleconference location:

- *Councilmember Qaadri attended the Regular Meeting via teleconference from The Boston Long Wharf – Lobby Business Center, 296 State Street, Boston, MA 02109.*

All votes during the remote session were conducted by roll call vote.

CLOSED SESSION 6:30 PM

I. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)
Name of case: City of Dublin v. Benson, et al., Alameda County Superior Court Case No. 23CV045872

REGULAR MEETING 7:00 PM

A Regular Meeting of the Dublin City Council was held on Tuesday, November 19, 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 via Zoom
Janine Thalblum, Councilmember	Present

Mayor McCorriston reported Councilmember Qaadri was participating remotely via teleconference, that pursuant to Government Code §54953(b), the meeting location was posted on the agenda and the agenda was posted at the teleconference location 72 hours before the meeting, and all votes during the teleconference session would be conducted by roll call vote.

2) REPORT ON CLOSED SESSION

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

3) PRESENTATIONS AND PROCLAMATIONS

3.1) Employee Introductions

New City of Dublin Staff members, Christine Begin, Office Assistant II with Parks and Community Services, Sophia Zafiratos, Office Assistant II with Police Services and Oscar Rivera, Associate Civil Engineer with the Public Works Department, were introduced.

3.2) Presentation on PG&E Power Outages in Eastern Dublin

The City Council received a presentation on the recent PG&E power outages affecting residents and businesses in eastern Dublin.

4) PUBLIC COMMENT

Joe Washington provided public comment.

Varun Gupta provided public comment.

5) CONSENT CALENDAR

5.1) Approved the minutes of the November 5, 2024 Regular City Council Meeting.

5.3) Adopted Resolution No. 129-24 titled, "Approving a Commercial Façade Improvement Grant Program Agreement Between the City of Dublin and Dobos Stacey S Tr & McCloskey Kenneth D Tr Etal."

5.4) Adopted Resolution No. 130-24 titled, "Approving an Outdoor Operations Grant Program Agreement Between the City of Dublin and 7400 Amador LLC."

5.5) Received the notification of the City Engineer's pending approval of the Final Map for Tract 8677, Planning Area 4 (PA -4) The DC (Dublin Centre); adopted Resolution No. 131-24 titled, "Approving the Agreement for Long Term Encroachment for Landscape Features with Tract 8677, PA-4 The DC (Dublin Centre);" and adopted Resolution No. 132-24 titled, "Ordering the Annexation of The DC (Dublin Centre) into the Dublin Ranch Street Lighting District 1999-1."

5.6) Adopted Resolution No. 133-24 titled, "Authorizing the City Manager to Approve Contract Change Orders with Goodfellow Bros. California, LLC Iron Horse Nature Park and Open Space Phase 1 Project, CIP No. PK0422."

5.7) Received the City Treasurer's Informational Report of Investments for the Quarter Ending September 30, 2024.

5.8) Received the Payment Issuance Report with a listing of payments issued from October 1, 2024 – October 31, 2024, totaling $8,897,203.06.

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 5.2.

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

5.2) Youth Mini-Grant Funding Recommendations Approval

This item was pulled from the Consent Calendar by Councilmember Josey for further discussion.

On a motion by Councilmember Qaadri and seconded by Councilmember Josey, and by unanimous roll call vote, the City Council adopted Resolution No. 128-24 titled, "Approving Funding Recommendations for the Fiscal Year 2024-25 Youth Advisory Committee Youth Mini-Grant Program," and directed Staff to revisit the total amount for the Youth Mini-Grant Program for the next fiscal year.

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

6) PUBLIC HEARING

6.1) Dublin Centre Community Facilities District Formation

The City Council received a presentation to consider the formation of City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).

Mayor McCorriston opened the Public Hearing.

Mayor McCorriston asked if the City Clerk had received any written protest, and the City Clerk noted no written protests had been received.

Tom Evans provided public comment.

Mayor McCorriston asked the City Clerk if there was a majority protest to the Community

Facilities District No. 2024-1 (Dublin Centre) and the City Clerk reported there was not.

Mayor McCorriston closed the Public Hearing.

Mayor McCorriston called for a break at 8:50 PM.

Mayor McCorriston reconvened the meeting at 9:08 PM.

Mayor McCorriston re-opened the Public Hearing.

Jim Fabian, Principal, Fieldman Rolapp & Associates, stated the Rate and Method of Apportionment of Special Taxes (Exhibit A to the Resolution Forming the City of Dublin Community Facilities District No. 2024-1) had been amended at the City Council's request to reflect a maximum effective tax rate of 1.5% for the entry level zone (Zone 1), 1.6% for the shop zone (Zone 3), and 1.73% for the remaining zones.

Mayor McCorriston closed the Public Hearing.

On a motion by Councilmember Josey, seconded by Councilmember Thalblum, and by a four-to-one roll call vote, the City Council adopted Resolution No. 134-24 titled, "Forming the City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)," with Exhibt A amended to show: 1.5% for the entry level zone (Zone 1), 1.6% for the shop zone (Zone 3), and 1.73% for the remaining zones; Resolution No. 135-24 titled, "Determining Necessity to Incur Bonded Indebtedness for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre);" and Resolution No. 136-24 titled, "Calling Special Election for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)."

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

The City Clerk announced the results of the election for Community Facilities District No. 2024-1 (Dublin Centre) with 55 yes votes and 100% approval.

On a motion by Councilmember Josey, seconded by Councilmember Thalblum, and by a four-to-one roll call vote, the City Council adopted Resolution No. 137-24 titled, "Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)," and waived the first reading and introduced an Ordinance Levying Special Taxes Within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).

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

7) UNFINISHED BUSINESS – None.

8) NEW BUSINESS

8.1) 2022 Parks and Recreation Master Plan Update

The City Council received an update on the progress made on the Parks and Recreation Master Plan.

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 collaborate with Parks Reserve Forces Training Area to plan an event for the Army's birthday in June 2025 and to bring back for discussion a retention policy for text messages regarding City business, particularly those received during City Council meetings.

10) ADJOURNMENT

Mayor McCorriston adjourned the meeting at 9:55 PM.

_____
Mayor

ATTEST:

_____
City Clerk

Agenda Item 5.2

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Amendment to the Agreement with Advanced Integrated Pest Management for Pest Control Services
Prepared by: Julius Pickney, Management Analyst II

EXECUTIVE SUMMARY:

The City Council will consider approving an amendment to the agreement with Advanced Integrated Pest Management for pest control services at City Facilities and on Parks Reserve Forces Training Area (Camp Parks).

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with Advanced Integrated Pest Management for Pest Control Services.

FINANCIAL IMPACT:

The cost of these services at City facilities will be charged to the Public Works Department in accordance with the adopted annual operating budget. All expenditures for services provided on Camp Parks are reimbursed to the City through the Intergovernmental Support Agreement which includes an administrative fee for the City's oversight and management of services. The proposed amendment sets the not-to-exceed (NTE) contract amount at $84,411 for City services only (it was previously NTE $159,742 for both City and Camp Parks services). Pest management provided at Camp Parks through the contract are estimated at $70,000 per year but will not have an NTE limit.

DESCRIPTION:

The Public Works Department utilizes contractors for regular and on-call maintenance services. On June 21, 2022, the City Council adopted Resolution No. 76-22 approving an agreement with Advanced Integrate Pest Management (AIPM) for pest control services at City buildings and at facilities on Camp Parks. The agreement expires on June 30, 2025. Staff recommends an early extension to address budgetary constraints, as unanticipated rodent eradication efforts requested

by Camp Parks over the past two years have significantly exceeded the original budget allocation, leaving insufficient funds to continue providing pest control services. To address this, Staff proposes an amendment to extend the term by two years to June 30, 2027, revise the scope of services, account for reimbursable services, and update the compensation schedule to reflect current service rates, including the previously approved 3% maximum annual cost-of-living adjustment which will remain in effect for the duration of the contract.

The City of Dublin provides pest control services on Camp Parks through an Intergovernmental Support Agreement (IGSA) that was approved by the City Council on December 3, 2019 (Resolution No. 129-19). The City currently provides pest control services through the agreement with AIPM. Camp Parks staff requests the City continue providing pest management services through this agreement and requests flexibility to make service adjustments throughout the contract term to allow for changing needs at Camp Parks. An example of such changing needs is exterior rodent control, which is dependent on seasonal factors and rodent population growth.

All expenditures associated with providing pest control services on Camp Parks through the ISGA are fully reimbursed by the federal government. In addition to reimbursement of AIPM service charges, the City receives an administrative fee to cover the cost of managing the contract. The proposed amendment includes revisions to the compensation clause, removing the not-to-exceed NTE limit from the services performed on Camp Parks, thereby allowing City staff to work directly with Camp Parks to authorize requested pest management services and manage the associated expenditure and revenue budgets administratively. This reduces the NTE limit from $159,742 to $84,411 for City services only.

The proposed amendment also includes revisions to the scope of services, including adding the requirement that AIPM must comply with the City of Dublin Integrated Pest Management Policy and Standard Operating Procedure. The amendment also adds the Dublin Arts Center to the City service locations and updates the rate schedule to show the Fiscal Year 2024-2025 rates.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Resolution Approving an Amendment to the Agreement with Advanced Integrated Pest Management for Pest Control Services
2) Exhibit A to Resolution – First Amendment to Contractor Services Agreement with Advanced Integrated Pest Management
3) Contractor Services Agreement with Advanced Integrated Pest Management

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

APPROVING AN AMENDMENT TO THE AGREEMENT WITH ADVANCED INTEGRATED PEST MANAGEMENT FOR PEST CONTROL SERVICES

WHEREAS, on December 13, 2019, the City Council adopted Resolution No. 129-19 authorizing the City to enter into an Intergovernmental Support Agreement (IGSA) with U.S. ARMY Garrison Fort Hunter Ligget to provide installation support at Camp Parks Reserve Forces Training Area (Camp Parks) including pest control services through agreements; and

WHEREAS, contractual services provided through this IGSA to Camp Parks may vary based on evolving needs; and

WHEREAS, all costs associated with the IGSA are fully reimbursed by the Federal Government plus an administrative fee resulting in a positive net impact on the City's General Fund; and

WHEREAS, on June 21, 2022, the City Council adopted Resolution No. 76-22 approving an agreement with Advanced Integrated Pest Management (AIPM) for pest control services at City facilities and on Camp Parks; and

WHEREAS, on June 6, 2024, the City Council adopted Resolution No. 53-24 Adopting a Budget for the City of Dublin Fiscal Year 2024-25, and said Resolution authorized the City Manager to increase revenue and expenditure budget for various departmental functions, when corresponding revenues equal or exceed expenditures; and

WHEREAS, all expenditures related to the pest control services provided through the IGSA to Camp Parks will be managed administratively and the fees for these pest control services will not be subject to the not-to-exceed compensation limit in the agreement with AIPM; and

WHEREAS, the City and Contractor mutually desire to amend the Agreement to extend the term to June 30, 2027, reduce the not-to-exceed compensation amount to $84,411 for City-related services not including Camp Parks services, update the Scope of Services, and update the compensation schedule to reflect existing annual cost-of-living adjustments.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin does hereby approve the amendment to the agreement with Advanced Integrated Pest Management, 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 **Exhibit A** to carry out the intent of this Resolution.

PASSED, APPROVED AND ADOPTED this 3rd day of December 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

Docusign Envelope ID: 2DD4EAB5-977D-4218-88C0-F2BE89D22816

FIRST AMENDMENT TO CONTRACTOR SERVICES AGREEMENT BETWEEN THE CITY OF DUBLIN AND ADVANCED INTEGRATED PEST MANAGEMENT

WHEREAS, on December 13, 2019, the City of Dublin (hereinafter referred to as "CITY") entered into an Intergovernmental Support Agreement (IGSA) to provide installation support at Camp Parks Reserve Forces Training Area (Camp Parks), including pest control services through agreements; and

WHEREAS, contractual services provided through this IGSA to Camp Parks may vary based on evolving needs; and

WHEREAS, all costs associated with the IGSA, are fully reimbursed by the Federal Government plus a 7% admin fee resulting in a positive net impact on the City's General Fund; and

WHEREAS, on July 1, 2022, the CITY and Advanced Integrated Pest Management (hereinafter referred to as "CONTRACTOR") entered into a Contractor Services Agreement for pest control management services (hereinafter referred to as the "AGREEMENT"); and

WHEREAS, on June 6, 2024, Resolution 53-24 was adopted authorizing CITY to manage the budget administratively when budget adjustments increase expenditures and corresponding revenues are equal or exceed the increased expenditures; and

WHEREAS, it is acknowledged that all expenditures related to the services rendered at Camp Parks will be managed administratively and will not be included in the not-to-exceed compensation limit with the AGREEMENT for CITY services; and

WHEREAS, the CITY and CONTRACTOR now wish to amend the AGREEMENT to extend the term through June 30, 2027 by modifying Section 1.1 of the AGREEMENT, and set a not-to-exceed compensation amount of $84,411 for City-related services by modifying Section 2 of the AGREEMENT; and

WHEREAS, the CITY and CONSULTANT now wish to amend the AGREEMENT to replace both Exhibit A and Exhibit B with a singular Exhibit A; and

WHEREAS, the CITY and CONTRACTOR now wish to amend the AGREEMENT to include Exhibit B - Integrated Pest Management Standard Operating Procedure; and

WHEREAS, the CITY and CONTRACTOR now wish to amend the AGREEMENT to revise references within the AGREEMENT as necessary to reflect the updated Exhibit A and Exhibit B.

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NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the AGREEMENT is amended as follows:

1) The end of the term, set forth in section 1.1 of the AGREEMENT shall be extended until June 30, 2027.

2) The compensation amount, set forth in section 2 of the AGREEMENT shall be increased to a sum not to exceed $84,411.

3) Exhibit A shall be rescinded in its entirety and replaced with the attached revised exhibit.

4) Exhibit B shall be rescinded in its entirety and replaced with the attached revised exhibit.

5) The language in Section 2.6 shall be rescinded in its entirety and replaced with the following: “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.”

6) Except to the extent inconsistent with this First Amendment, the Parties ratify and confirm all of the terms and conditions of the AGREEMENT.

7) All requisite insurance policies to be maintained by the CONTRACTOR pursuant to the AGREEMENT, as may have been amended from time to time, shall include coverage for the amended term, as described above.

8) The individuals executing this Amendment, and the instruments referenced in it on behalf of CONTRACTOR each represent and warrant that they have the legal power, right and actual authority to bind CONTRACTOR to the terms and conditions of this Amendment.

SIGNATURES ON THE FOLLOWING PAGE

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IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed as of the date of the City Manager's signature below.

CITY OF DUBLIN

By: _____
Colleen Tribby, City Manager

Dated: _____

ATTEST:

By: _____
Marsha Moore, City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

ADVANCED INTEGRATED PEST MANAGEMENT

By: DocuSigned by: Brian Romani 4C6140B60060487... _____
Brian Romani, President and CEO

Docusign Envelope ID: 2DD4EAB5-977D-4218-88C0-F2BE89D22816

EXHIBIT A

SCOPE OF SERVICES & COMPENSATION SCHEDULE

Contractor shall treat and/or provide for an environment that is free from, but not limited to, the following pests:

1. Insects (crawling): Such as spiders, cockroaches, beetles, ants (all species), earwigs, sow bugs, centipedes, silverfish, crickets, and grasshoppers
2. Insects (biting): Such as fleas
3. Insects (stinging and nesting): Such as wasps, hornets, and other stinging insects nesting on or around the facility (interior, exterior, up to two stories, or within 50 feet of the facility).
4. Rodents: Such as mice, rats, and other small rodents
5. Burrowing Rodents: Such as gopher, moles, squirrels, and voles

Pest control services shall be performed at all City facilities and at Camp Parks Reserve Forces Training Area (Camp Parks), as listed below. Additionally, the Public Works Manager may provide written approval for any unforeseen locations or services beyond those already covered in this Agreement.

Contractor shall wear a uniform with company identification whenever working in or around any City facility and Camp Parks. Contractor shall establish and submit to the City/Camp Parks a schedule of services to be performed at each location. Each facility shall be serviced monthly, unless noted otherwise.

Prior to providing services, contractor shall schedule all visits, to City facilities and Camp Parks, with the City Public Works Manager (or designee).

Contractor must check in with City/Camp Parks staff prior to performing services to receive any updates on issues that may have arisen since the last routine service.

Contractor must perform a thorough inspection during routine service. Contractor shall provide the City/Camp Parks with a copy of the inspection report (electronically) within one week of service and report any issues that may be addressed by the City/Camp Parks prior to the next scheduled service (i.e., trim vegetation away from building, install door sweeps, etc.).

Complaints and service requests between routine services must be addressed within 24 hours after notification and will be at no additional cost.

All pest control services shall be performed in accordance with Federal, State, and Local rules and regulations. All chemicals used during the service must be approved for its intended use and applied in a manner consistent with the regulations established by the State of California Department of Pesticide Regulation and consistent with Federal and Cal OSHA standards. Contractor must comply with the City of Dublin Integrated Pest Management Policy and Standard Operating Procedure (Exhibit B) as provided or updated in the future.

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LOCATIONS AND RATE SCHEDULE

City of Dublin Locations

Site#	Facility	Floors	Interior Building	Exterior Building	Frequency	FY24/25 Monthly Rate	FY 24/25 Total Annual Rate
1	City Hall 100 Civic Plaza	2	X	X	Monthly	$111.40	$1,336.80
1A	Dublin Arts Center	2	X	X	Monthly	$111.40	$1,336.80
2	Library 200 Civic Plaza	1	X	X	Monthly	$79.57	$954.84
3	Dublin Police - PSC 6361 Clark Avenue	1	X	X	Monthly	$111.40	$1,336.80
4	Shannon Center 11600 Shannon Avenue	1	X	X	Monthly	$79.57	$954.84
5	Senior Center 7600 Amador Valley Boulevard	1	X	X	Monthly	$79.57	$954.84
6	Heritage Park & Museum (Old St. Raymond Church & Schoolhouse) 6600 Donlon Way	1	X	X	Monthly	$74.27	$891.24
7	Historic Park (Kolb House) 6600 Donlon Way	1	X	X	Monthly	$63.66	$763.92
8	The WAVE 4201 Central Parkway	1	X	X	Monthly	$132.62	$1,591.44
9	Corporation Yard 5709 Scarlett Court	1	X	X	Monthly	$79.57	$954.84
10	Fire Station 16 7494 Donohue Drive	1	X	X	Monthly	$63.66	$763.92
11	Fire Station 17 6700 Madigan Drive	1	X	X	Monthly	$63.66	$763.92
12	Fire Station 18 4800 Fallon Road	1	X	X	Monthly	$63.66	$763.92

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Camp Parks Reserve Forces Training Area Locations

Site#	Facility	Floors	Interior Building	Exterior Building	Frequency	FY24/25 Monthly Rate
150	Warehouse	2		X	Upon Request	$42.44
162	Warehouse	1		X	Upon Request	$42.44
171	Warehouse	1		X	Upon Request	$42.44
275	Visitor Center	1	X	X	Weekly	$26.53
277	Guard Shack	1	X	X	Weekly	$26.53
278	Guard Shack	1	X	X	Weekly	$26.53
282	Guard Shack	1	X	X	Weekly	$26.53
300	Administrative	2	X	X	Monthly	$53.05
301	Administrative	2	X	X	Monthly	$53.05
302	Administrative	2	X	X	Monthly	$53.05
303	Fitness Center	2	X	X	Weekly	$53.05
304	Administrative	2	X	X	Monthly	$53.05
306	Administrative	2	X	X	Monthly	$53.05
309	Storage	1		X	Monthly	$42.44
310	Administrative	2		X	Monthly	$53.05
311	Administrative	1	X	X	Weekly	$53.05
312	Administrative	1	X	X	Weekly	$53.05
313	Warehouse	1		X	Monthly	$42.44
320	Administrative	2		X	Monthly	$53.05
321	Administrative	2		X	Monthly	$53.05
330	Administrative	2		X	Upon Request	$53.05
332	Dining Facility	3	X	X	Weekly	$106.09
334	Warehouse	1		X	Monthly	$42.44
342	Storage	1		X	Monthly	$42.44
350	Administrative	1	X	X	Weekly	$53.05

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360	Barracks	2	X	X	Weekly	$53.05
361	Barracks	2	X	X	Weekly	$53.05
362	Barracks	2	X	X	Weekly	$53.05
363	Barracks	2	X	X	Weekly	$53.05
364	Barracks	2	X	X	Weekly	$53.05
373	Administrative	2	X	X	Weekly	$53.05
387	Container Storage	1		X	Upon Request	$53.05
388	Container Storage	1		X	Upon Request	$31.83
389	Container Storage	1		X	Upon Request	$31.83
390	Barracks	2	X	X	Monthly	$31.83
391	Barracks	2	X	X	Monthly	$53.05
392	Barracks	2	X	X	Monthly	$53.05
393	Barracks	2	X	X	Monthly	$53.05
394	Barracks	2	X	X	Monthly	$53.05
398	Laundry Facility	1	X	X	Weekly	$53.05
490	Vehicle Maintenance	1	X	X	Weekly	$42.44
494	Warehouse	1	X	X	Weekly	$42.44
495	Admin/Storage	1		X	Upon Request	$53.05
510	Administrative	2	X	X	Weekly	$53.05
511	Storage	1		X	Upon Request	$42.44
512	Storage	1		X	Monthly	$42.44
514	Administrative	1	X	X	Weekly	$53.05
515	Storage	1		X	Monthly	$42.44
516	Vehicle Maintenance	1		X	Monthly	$42.44
517	Administration	2	X	X	Weekly	$53.05
521	Administration/Rally	1	X	X	Weekly	$53.05
522	Storage	1		X	Upon Request	$42.44
610	Administrative	1	X	X	Weekly	$53.05
612	Storage	1		X	Upon Request	$42.44

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620	Administrative	1	X	X	Weekly	$53.05
628	Admin/Toilet	1		X	Upon Request	$53.05
635	NEC Node	1		X	Upon Request	$42.44
650	Administrative	2	X	X	Monthly	$53.05
659	Administrative	3	X	X	Weekly	$53.05
665	Admin/Storage	1	X	X	Monthly	$53.05
677	Administrative	1	X	X	Monthly	$53.05
685	Warehouse/Storage	1	X	X	Monthly	$53.05
791	Admin/Shops	1	X	X	Weekly	$42.44
1192	Access Control	1		X	Upon Request	$53.05
1195	Range OPS/Storage	1		X	Upon Request	$53.05
1206	Administrative	1		X	Upon Request	$53.05
1209	Administrative	1		X	Upon Request	$53.05
1211	Administrative	1		X	Upon Request	$53.05
0396A	Baseball Dugout (R)	1		X	Upon Request	$26.53
0396B	Baseball Dugout (L)	1		X	Upon Request	$26.53
J1210	Administrative	1		X	Upon Request	$53.05
MISC	Curbs	1		X	Bimonthly	$26.53
MISC	Gravel Areas	1		X	Bimonthly	$26.53
R0EST	Administrative	1		X	Upon Request	$53.05
R396C	Baseball (Booth)	1		X	Upon Request	$26.53
TR490	Showers	1		X	Upon Request	$26.53
520, 521, 373, 490, 494	Squirrel eradication initial install	1		X	One Time	$3,350
520, 521, 373, 490, 494	Squirrel eradication: ball field, flagpole, Fire Dept, Recreation Ctr	1		X	Monthly	$2,200

Reimbursable expenses are built into rates identified above.

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COMPENSATION SCHEDULE

	FY22/23 Actuals	FY23/24 Actuals	FY24/25 Budget	FY25/26 Budget	FY26/27 Budget	Total
City Facilities	$16,464	$11,628	$13,368	$13,769	$14,182	$69,411
City Contingency*	--	--	$5,000	$5,000	$5,000	$15,000
City Total	$16,464	$11,628	$18,368	$18,769	$19,182	$84,411
Camp Parks**	$53,040	$43,045	Anticipated $70k	Anticipated $70k	Anticipated $70k	Anticipated $306,085

*City Contingency fund usage requires prior authorization from the Public Works Manager or designee.

**Camp Parks anticipated budget based on needs of user per rate schedule provided above. Administrative budget adjustments allowed, provided positive net impact on General Fund.

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 start of a new Fiscal Year (July 1-June 30). Any changes to cost shall be approved in writing by the Public Works Manager or designee. Any such increase shall be calculated based on the Consumer Price Index for All Urban Consumers (CPI-U) and shall not exceed 3%.

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DUBLIN
CALIFORNIA
THE NEW
AMERICAN
BACKYARD

Exhibit B

City of Dublin

Integrated Pest Management Standard Operating Procedure

Public Works Department

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

Updated 2024

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Background and Purpose

On May 2nd, 2006, City Council adopted Resolution No. 57-06 Establishing a Policy on Integrated Pest Management (Attachment A) to meet requirements in the Municipal Storm Water Discharge Permit CAS0029831 issued by the San Francisco Bay Regional Water Quality Control Board to the Alameda Countywide Clean Water Program (Permit). The IPM Policy set forth guiding principals for the development and implementation of an IPM Policy on all City owned facilities to accomplish the following:

1) Minimize pesticide use at City facilities to ensure that the City remains in compliance with the Permit by applying the IPM Policy;
2) Reduce the use of broad-spectrum pesticides when feasible;
3) Conduct outreach and provide the means of educating all City Staff to create awareness about IPM and the use of alternative pest management techniques; and
4) Reduce the adverse impacts to water quality (both in local creeks and the San Francisco Bay) due to pesticide usage, particularly from copper-based pesticides, 2-4-d based herbicides and organophosphate pesticides.

After the adoption of Resolution No. 57-06, the Permit has been revised three times. The third reissuance of the Municipal Regional Stormwater National Pollutant Discharge Elimination System Permit (MRP) requires Permittees to develop a pesticide toxicity control program for use of pesticides in its municipal operations and on municipal property. The program must be based on the concepts of Integrated Pest Management (IPM) and Permittees must have an IPM policy and associated Standard Operating Procedures (SOP) to implement the policy. The purpose of the IPM Policy and SOPs (Policy) is to prevent the impairment of urban streams by pesticide-related toxicity. The pesticides known to impact water quality which are included in MRP 3 has expanded to include those listed below.

Urban-use pesticides of concern to water quality included in the MRP include:

- Diamides (chlorantraniliprole and cyantraniliprole)
- Diuron, fipronil, and its degradates
- Indoxacarb
- Organophosphorous insecticides (chlorpyrifos, diazinion, and malathion)
- Pyrethroids (metoflurthrin, bifenthrin, cyfluthrin, beta-cyfluthrin, cypermethrin, deltamethrin, esfenvalerate, lambda-cyhalothrin, and permethrin)
- Carbamates (e.g. carbaryl and aldicarb)
- Neonicotinoids (e.g. imidacloprid, acetamiprid, and dinotefuran)
- Copper-based chemicals

In addition to the pesticides listed in the MRP, the City of Dublin prohibits the use of glyphosate (i.e., Roundup) and 2-4-d based herbicides on City property.

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IPM Overview

Integrated Pest Management (IPM) is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of control methods or techniques. **Pesticides are used only after monitoring indicates they are needed**, according to established action thresholds and when pest threshold levels are exceeded.

Understanding pest characteristics and needs is essential to implementing IPM effectively. Pests seek habitats that provide basic needs such as air, moisture, food and shelter. They often can be prevented or controlled by creating inhospitable environments, by removing basic survival elements or by simply blocking their access. An effective, long-term approach to managing pests uses a combination of non-chemical methods or techniques that work well together. Chemical control methods are used only when implementation of non-chemical control methods have been unsuccessful at reducing pests below the established action threshold for the pest. Approaches for managing pests are grouped as shown below and explained in more detail in Attachment B.

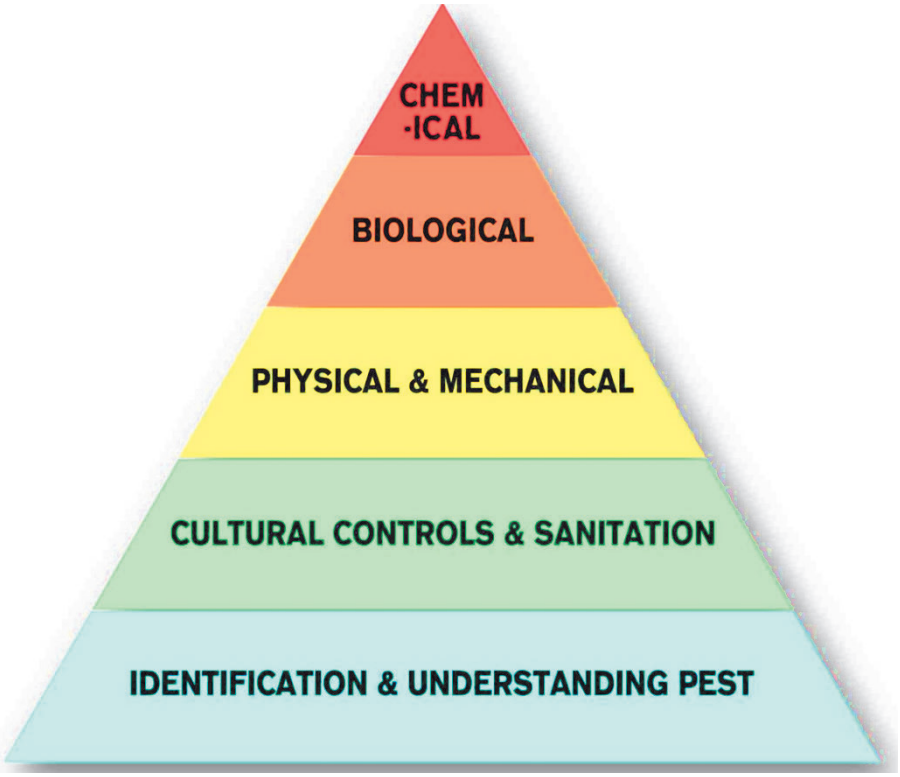


Image credit: https://beehealth.uada.edu/assets/pages/beekeepingipm.html

IPM Pest Management Hierarchy

The IPM-based hierarchical decision-making process used to control pests will follow the five steps of IPM, as described below.

Five Steps of IPM (from Pesticide.org)

1) Identify the pest. Most species of living things are NOT pests, but are contributing members of the broader ecosystem (e.g. spiders in landscape areas). By taking the time to ensure that

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a suspected pest is an actual pest, a lot of unnecessary pest control efforts can be eliminated.

2) Monitor pest activity. By monitoring pest populations over time, you can determine if pests are present in numbers to be concerned about potential damage. Monitoring ensures that unnecessary treatments are avoided.
3) Determine Action Thresholds. An action threshold is the point at which further damage is considered intolerable and some kind of pest control action is required.
4) Explore treatment options and make treatments. There are many different treatment options besides pesticides and prevention should always be considered first. Exclusion is key. Using screens and caulking goes a long way to keeping pests out of buildings. Increasing levels of sanitation often plays a big role in preventing pests.
    a. If pesticides are deemed necessary, priority should be given to treatments that are highly targeted to the pest organism, using containerized baits when possible, and to pesticides that are least toxic to human health and the environment. Particular attention must be paid to avoid pesticides that cause water quality impairment as listed above.
5) Evaluate results. Monitoring after the treatments is how you know how effective the treatment was, and if pest populations are at acceptable levels. No further treatments are made unless monitoring shows that pests are again at action thresholds.

Roles and Responsibilities

1. **Public Works Manager** will oversee implementation of the IPM Policy, including:
    i. Be knowledgeable about IPM and the IPM Policy.
    ii. Ensure that any permits or licenses that the City and/or its contractors need to have are maintained.
    iii. Ensure that contract documents require contractors to adhere to the IPM Policy.
    iv. Include the IPM Policy in contractor service solicitations (e.g., RFPs) and contract specifications.
    v. Give contract award preference to contractors who are IPM certified and possess a Qualified Applicators License or Certificate, as applicable.
    vi. Require review of the City's IPM Policy and SOP during contract kickoff project meetings and during annual IPM Policy trainings.

2. **Public Works Maintenance Coordinator** will direct pesticide contractors to implement the IPM Policy. Specifically, the Public Works Maintenance Coordinator will:
    i. Be knowledgeable about IPM and the IPM Policy.
    ii. Attend IPM trainings.
    iii. Require evidence of certifications/permits/licenses required of all pesticide contractors and subcontractors.
    iv. Require monthly pesticide use records from contractors and an application summary report for MRP Annual Reporting.
    v. Verify contractor compliance with the IPM Policy and document actions taken to correct contractor performance for MRP Annual Reports.

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vi. Ensure proper pesticide application noticing, as required by pesticide manufacturer product guidelines and federal/state regulations.
vii. Approve pesticide application pre-approval requests.

3. **Environmental & Sustainability Manager will** provide support to the Maintenance Division, including:
   i. Provide annual training to employees and contractors involved with facility and landscape maintenance on the IPM Policy.
   ii. Document annual IPM training attendance, content and materials for MRP Annual Reports.
   iii. Report on IPM practices implemented and pesticides used in the MRP Annual Reports.
   iv. Assist with development of pest specific action plans and SOPs.

4. **Contractors** will:
   i. Comply with all federal, state and local pest control operator regulations, maintain current licenses and possess the appropriate Qualified Applicators License or Certificate.
   ii. Utilize pesticides safely and in accordance with federal and state regulations.
   iii. Adhere to the IPM Policy, the City's IPM SOP, and follow industry accepted IPM strategies that emphasize non-pesticide alternatives to control pests.
   iv. Provide monthly pesticide use records and an annual summary report in the form and format required by the Public Works Maintenance Manager. The monthly and annual reports will include the following information, at minimum:
      a. Date and time of pesticide application or service.
      b. Site of the pesticide application.
      c. Name and EPA registration number of product applied.
      d. Active ingredient.
      e. Indicate if the active ingredient is a pesticide of concern to water quality or otherwise prohibited for use on City of Dublin property (as listed in Section 1 above).
      f. Where and how pesticides were applied at the site (e.g., were the applied in a manner that can impact water quality).
      g. Targeted pest.
      h. Amount of active product applied (weight or volume).
      i. Non-chemical IPM methods that were considered or tried.
   v. Develop pest specific action plans and SOPs for review and approval by the City.
   vi. Structural pest control contractors should be IPM-certified from a recognized certification program, such as:
      a. Eco Wise Certified: ecowisecertified.org
      b. Green Shield: greenshieldcertified.org
      c. GreenPro: npmaqualitypro.org

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vii. Landscape contractors should be trained in IPM from a recognized training program, such as:
    a. ReScape California: rescapeca.org

IPM Resources

The following are some of the available resources for more information on IPM. In addition to these web resources, the Municipal Maintenance Subcommittee of the Alameda Countywide Clean Water Program developed a printed binder in June 2018 which is available at the City's Corporation Yard and in the Public Works Department.

1. University of California Agriculture and Natural Resources Statewide Integrated Pest Management Program ipm.ucanr.edu
2. County of Santa Clara Integrated Pest Management Program (including pest identifier information) sccgov.org/sites/ipm/Pages/Home.aspx
3. Our Water, Our World Program (including a list of less toxic pesticides) ourwaterourworld.org.
4. San Francisco County Integrated Pest Management Program sfenvironment.org/pest-management-for-city-departments

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Attachment A: Resolution 57-06

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RESOLUTION NO. 57 – 06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

* *

ESTABLISHING A POLICY ON INTEGRATED PEST MANAGEMENT (IPM)

WHEREAS, the City of Dublin is subject to the terms of the Municipal Storm Water Discharge Permit (CAS0029831Permit) issued by the San Francisco Bay Regional Water Quality Control Board; and

WHEREAS, Provision C 10 c of the Permit requires municipalities to address the impairment of urban streams due to pesticide usage; and

WHEREAS, the City of Dublin has prepared an Integrated Pest Management (IPM) Policy covering the ongoing operation to control and manage pests in and around the City's buildings and facilities, parks, and urban landscape areas; and

WHEREAS, the Policy sets forth guiding principals for the development and implementation of an Integrated Pest Management (IPM) Policy on all City-owned facilities to accomplish the following:

1) Minimize pesticide use at City facilities to ensure that the City remains in compliance with the Permit by applying the Integrated Pest Management Policy;
2) Reduce the use of broad-spectrum pesticides when feasible;
3) Conduct outreach and provide the means of educating all City Staff to create awareness about IPM and the use of alternative pest management techniques;
4) Reduce the adverse impacts to water quality (both in local creeks and the San Francisco Bay) due to pesticide usage, particularly from copper-based pesticides, 2-4-d based herbicides, and organophosphate pesticides;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin does hereby establish a policy, attached hereto as **Exhibit "A,"** entitled "Integrated Pest Management (IPM) Policy "

PASSED, APPROVED AND ADOPTED this 2nd day of May, 2006, by the following vote:

AYES	Councilmembers Hildenbrand, McCormick, Oravetz and Zika, and Mayor Lockhart
NOES	None
ABSENT	None
ABSTAIN	None

Janet Lockhart
Mayor

ATTEST:

Julie Holmes
City Clerk

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INTEGRATED PEST MANAGEMENT (IPM) POLICY FOR FACILITIES OWNED BY THE CITY OF DUBLIN

This policy sets forth the guiding principles for the development and implementation of Integrated Pest Management (IPM) on all City facilities. The City of Dublin, including all departments and staff therein, and contractors providing pest control services at City facilities shall follow the City's IPM policy to control and manage pests in and around City buildings and facilities, parks and golf courses, urban landscape areas and rights-of-way

Purpose and Goals

The goals of the IPM policy and its implementation throughout the City are to:

1) Minimize pesticide use at City facilities to ensure that the City maintains compliance with its National Pollution Discharge Elimination System (NPDES) Stormwater Permit (Order # R2-2003-0021) requirements.

2) Reduce the use of broad-spectrum pesticides, when feasible.

3) Outreach and provide means of educating all City staff, creating awareness about IPM and the use of alternative pest management techniques.

4) Reduce the adverse impacts to water quality (both in local creeks and the San Francisco Bay) due to pesticide usage, particularly from copper-based pesticides, 2-4-d based herbicides, and organophosphate pesticides.

Background

The National Pollutant Discharge Elimination System (NPDES) permit (Order No. R2-2003-0021) issued by the California Regional Water Quality Control Board (RWQCB) mandates the member agencies of the Alameda Countywide Clearwater Program (ACCWP) to develop and implement an integrated pest management plan to address urban stream impairment by pesticides. In particular, organophosphate-containing pesticides (e.g., Diazinon and chlorpyrifos) have been found to persist in the environment and cause water quality impairment in some creeks, streams, and arroyos throughout Alameda County The NPDES permit also requires that municipalities implement measures to reduce discharges of copper into the San Francisco Bay

Using non-chemical controls, biological controls, and less toxic chemicals instead of copper-based and organophosphate pesticides or 2-4-d based herbicides to deal with pest problems, whenever possible, will help reduce the impact of pesticides in local arroyos and the San Francisco Bay

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Definitions

The following definitions are used in this Article:

National Pollutant Discharge Elimination System (NPDES) – NPDES permit issued by the Regional Water Quality Control Board (RWQCB) regulates any discharge of storm waters to receiving waters of the United States. The City is currently subject to NPDES Permit No. CAS0029831 issued by order No R2-2003-0021

Best Management Practices (BMPs) – Practices implemented by public agencies and private industries to prevent or reduce water pollution.

California Department of Pesticide Regulations (CDPR) – CDPR, in partnership with the Federal Environmental Protection Agency (EPA) and the County Department of Agriculture, oversees all issues regarding the registration, licensing and enforcement of laws and regulations pertaining to pesticides and its applications.

Adjacent - For the purpose of this Policy, adjacent shall mean the area of flow, and the banks of the ditch, creek or arroyo.

Pesticides - Defined in Section 12753 of the California Food and Agricultural Code as any spray adjuvant, or any substance, or mixture of substances, intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined in Section 12754 5 (of the Food and Agricultural Code), which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever. The term pesticide applies to herbicides, insecticides, fungicides, rodenticides and other substances used to control pests. Anti-microbial agents are not included in this definition of pesticides

Integrated Pest Management (IPM) - IPM is the strategic approach that focuses on long-term prevention of pests and the resulting damage from reaching unacceptable levels by selecting and applying the most appropriate combination of available pest control methods. These include cultural, mechanical, biological and chemical technologies that are implemented for a given site and pest situation in ways that minimize economic, health and environmental risks.

Environmental Stewardship - The strategic approach to pest management in which IPM practitioners focus on preserving the natural integrity and health of the environment, including public safety, while recommending or applying pest management methods. Environmental Stewardship philosophy helps to create awareness of the BMPs (Best Management Practices) and their relationship to maintaining a healthy environment while conducting pest management activities.

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Biological control - The use of biological technologies to manage unwanted pests. Examples of this type of control include, but would not be limited to, the use of pheromone traps or beneficial insect release for control of certain types of weeds or invasive insects in landscapes.

Cultural control - The use of IPM control methods, such as grazing, re-vegetation, disking, mulching, proper irrigation, seeding, and landscaping, with competitive or tolerant species to manage unwanted weeds, rodents or plant diseases.

Mechanical controls – Mechanical controls include the use of IPM control methods utilizing hand labor or equipment such as mowers, graders, weed-eaters, and chainsaws. Other examples of mechanical controls include screens on windows and doors, sticky barriers, vacuuming, crack and crevice sealants and closing small entryways (i.e., around pipes and conduits) into buildings for insect and rodent management.

Pest Control Advisor (PCA) - an individual licensed by the California Department of Pesticide Regulations according to Title 3, Article 5 of the California Code of Regulations. A licensed PCA, who is registered with the County Agricultural Commissioner, provides written pest control recommendations for agricultural pest management, including parks, cemeteries, and rights-of-way.

Qualified Applicators License (QAL) - a licensed applicator according to Title 3, Article 3 of the California Code of Regulations. This license allows supervision of applications that may include residential, industrial, institutional, landscape, or rights-of-way sites.

Qualified Applicators Certificate *(QAC)* - a certificate given to applicators that pass a test given by DPR. This certificate allows supervision of applications that may include residential, industrial, landscape, or rights-of-way sites.

Structural Pest Control Operator (SPCO- Branch I, II or III) - A licensed applicator of pest control within buildings and homes according to the requirements of the Structural Pest Control Board of the California Department of Consumer Affairs.

Prevention

The City of Dublin shall institute practices that reduce pesticide usage and result in the purchase of fewer pesticides whenever practicable and cost-effective, but without compromising safety, workplace quality or quality of service.

The first and most important part of any pest control plan is preventing the conditions that attract pests and result in a pest control problem. All City employees should remember to implement the following housekeeping practices in their workstations, vehicles, break-rooms, etc., in order to prevent the conditions that result in providing a food source and habitat that attract pests:

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1) Keep workstations/offices free of food scraps. Dispose of food wastes in a garbage container, which is sealed with lid.
2) Do not leave food overnight. Refrigerate all food or store in pest-proof containers.
3) Regularly wipe and clean counter-top areas and tables where food is prepared or consumed.
4) Keep waste storage/dumpster areas clean and free of litter and debris.
5) Report pest problems in a timely manner to City Building Maintenance.
6) Use Plants with similar water needs in designated areas to help eliminate stress due to improper watering.
7) Water landscaped areas properly and use resistant plant varieties
8) Pests are symptoms; food sources and habitat are the real problems.

Restricted Chemicals

City of Dublin employees and/or contractors employed by the City who are trained to recommend or apply pesticides shall not use or promote the use of·

1) Acute Toxicity Category I chemicals as identified by the Environmental Protection Agency (EPA) unless:
    (i) The use is judicious.
    (ii) Other approaches and techniques have been considered
    (iii) Adverse water-quality impacts are minimized to the maximum extent practicable.
2) Organophosphate pesticides (e.g., those containing Diazinon and chlorpyrifos)
3) Copper-based pesticides unless:
    (I) The use is judicious.
    (ii) Other approaches and techniques have been considered
    (iii) Adverse water-quality impacts are minimized to the maximum extent practicable.

Guidelines for Application of Pesticides

Licensed Pest Control Advisors or Individuals with valid Qualified Applicators License and/or Qualified Applicators Certificate will consider the options or alternatives listed below, in the following order, before recommending the use of or applying any pesticide on any City facility·

1) No controls (e.g., tolerating the pest infestation, use of resistant plant varieties or allowing normal life cycle of weeds)
2) Physical or mechanical controls (e.g., hand labor, mowing, etc.)
3) Cultural controls (e.g., mulching, disking, alternative vegetation)
4) Biological controls (e.g., natural enemies or predators)
5) Reduced-risk chemical controls (e.g., soaps or oils)

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City employees, Licensed Pest Management Contractors and other appropriately licensed contractors or individuals (QAL, QAC, SPCO) employed to control or manage pests will follow the City's Integrated Pest Management Policy and utilize generally accepted Best Management Practices (BMPs) to the maximum extent practicable. Pesticide Applicators will use available IPM technologies to ensure the long-term prevention or suppression of pest problems and to minimize negative impacts on the environment, non-target organisms, and human health.

All City departments and employees will promote non-toxic and reduced-risk alternatives for structural and landscape pest control, seeking to use the most up-to-date IPM technologies and Best Management Practices. The City will provide education for City staff who may use pesticides in the scope of their work regarding IPM practices.

New contracts entered into with pest management contractors and other appropriately licensed contractors employed to provide services that involve pesticide application at City-owned facilities after **January 1, 2006,** will include requirements that the contractors follow the requirements of the City's Integrated Pest Management Policy and implement available IPM technologies and Best Management Practices.

City of Dublin facilities leaseholders will be informed of the City's IPM Policy, and encouraged to use, whenever practical, available IPM technologies and Best Management Practices.

Pesticide Application

Only properly trained employees in accordance with the California D.P.R. or licensed contractors employed by the City may apply pesticides to or within City facilities.

City employees who are not authorized and trained in pesticide application are prohibited from using any pesticides, including "over-the-counter brands", in or around the work place. If insects or other pests are infesting a work area, a PCA should be contacted to assess and advise the best method to remove the pests.

City of Dublin employees and/or contractors employed by the City who are trained to recommend or apply pesticides will not use or promote the use of organophosphate pesticides (e.g., those containing Diazinon and chlorpyrifos) or copper-based pesticides unless:

1) The use is judicious.
2) Other approaches and techniques have been considered.
3) Adverse water-quality impacts are minimized to the maximum extent practicable.

Environmental Stewardship must always be taken into consideration when usage of pesticides is recommended. City employees, pest management contractors, and

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other appropriately licensed contractors employed by the City of Dublin will follow guidelines set by the IPM Policy to have the least impact on water quality and the environment.

City employees or appropriately licensed contractors employed by the City will always avoid applications of pesticides that directly contact water, unless the pesticide is registered under Federal and California law for aquatic use. Pesticides that are not approved for aquatic use will not be applied to areas immediately adjacent to water bodies where through drift, drainage, or erosion, there is a reasonable possibility of a pesticide being transported into surface water.

City Employee and Pest Control Contractor Training for PCA, QAL, QAC or Structural Pest Control Operators

(Branch I, II, and III)

Pest Control Advisors and Applicators, pest management contractors, and other Service Providers, servicing City-owned facilities will be licensed by the State of California Department of Pesticide Regulations (DPR) as a Pest Control Advisor or licensed Qualified Applicator City employees involved with pesticide applications as a normal part of their job duties and pest management contractors hired by the City will be trained as required by State of California DPR rules, the County Agricultural Commissioner, and/or the Structural Pest Control Board

City Staff responsible for pest management on City facility will provide annual training to all employees who apply pesticides as a normal part of their job duties on:

1. Pesticide Safety,
2. The City's IPM Policy, and
3. Appropriate Best Management Practices (BMPs) and Integrated Pest Management (IPM) Technologies supported by the Alameda Countywide Clean Water Program (ACCWP).

Education and Outreach

The City of Dublin Clean Water Program, in participation with the Alameda Countywide Clean Water Program, will continue with its existing program to encourage people who live, work, and/or attend school in Dublin to·

1 Obtain information on IPM techniques to control pests and minimize pesticide use;
2. Use IPM technologies for dealing with pest problems;
3. Perform pesticide applications according to the manufacturer's instructions as detailed on the product's label, and in accordance with all applicable State and Local Laws and Regulations set forth to protect the environment, the

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public, and the applicator; and properly dispose of unused pesticides and their containers.

Reporting Requirements

Each City department which uses pesticides, pest management contractors, or other appropriately licensed contractors employed by the City to provide services that involve pesticide application will submit an **Annual Pesticide Use Summary Report** for each service site, which details the product name, pesticide type (i.e. Pyrethoid, Carbamate, organophosphate, etc.) along with the total quantity of each pesticide used during the prior Fiscal Year (**July 1st to June 30th**) in order to provide an accounting of pesticide use at City-owned facilities. **Annual Pesticide Use Summary Reports shall be submitted by July 10th of each year to the NPDES Coordinator.** This information is reported as part of the City's NPDES Stormwater Permit Annual Report.

Each City department that applies pesticides will conduct an **Annual Inventory** by **July 10th** of each fiscal year Each City department subject to this requirement will complete an **Annual Inventory Report Form** which lists the product name, pesticide type (i.e. Pyrethoid, Carbamate, organophosphate, etc.) and the quantity on hand, as well as identify pesticides that are no longer legal or appropriate for applications per Federal, State, County, or City requirements. **Annual Inventory Reports shall be submitted by July 10th of each year to the NPDES Coordinator.** This information is reported as part of the City's NPDES Stormwater Permit Annual Report.

Annual Inventory Report Forms and Annual Pesticide Use Summary Report Forms are attached to this policy. Additional Forms may be obtained by contacting the NPDES Coordinator in the Public Works Department at 925-833-6630

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Attachment B: IPM Practices

The following provides a brief explanation of the different types of controls used when following an integrated pest management strategy. Specific controls will be pest specific and need to be developed on a case-by-case basis.

A. **Cultural Controls and Sanitation** are practices that reduce pest establishment, reproduction, dispersal, and survival. For example, plant resistance to pests can often be maximized by paying close attention to soil conditions and irrigation, and changing irrigation practices can reduce pest problems, since too much water can increase root disease and weeds. Sealing up food, providing proper waste storage and disposal, and educating people on good housekeeping practices are examples of cultural controls that can prevent or minimize pest problems inside or outside buildings.
B. **Physical and Mechanical Controls** can make the environment unsuitable for pest survival. Traps for rodents are examples of mechanical control. Physical controls include mulching, mowing or hoeing for weed management. Fly screens and hand removal of pests are other examples of physical controls.
C. **Biological Control** is the use of natural enemies such as predators, parasites, pathogens and competitors to control pests and their damage. Invertebrates, plant pathogens, nematodes, weeds and vertebrates often have natural enemies that can serve this function. Examples of natural enemies on pest populations include lacewings, ladybugs, predatory mites, and parasitoid wasps. These natural enemies can be mistaken for pests, which is why it is essential to positively identify the target “pest” before taking action. Conservation of vegetation to support beneficial insects is another example of a biological control.
D. **Chemical Treatments** with pesticides can be necessary if established threshold levels have been so severely exceeded that other methods are ineffective. Precise recommendations or actions to achieve specific results (i.e., controlling the pest population to a manageable level) is an essential part of an IPM Program. Specific pesticide recommendations are provided by a Pest Control Advisor (PCA) and least toxic options targeting the specific pest only are preferred. Using baits and traps rather than sprays should be tried first.

**CONTRACTOR SERVICES AGREEMENT BETWEEN
THE CITY OF DUBLIN AND
ADVANCED INTEGRAGED PEST MANAGEMENET**

THIS AGREEMENT for pest control management services is made by and between the City of Dublin ("City") and Advanced Integrated Pest Control ("Contractor") (together sometimes referred to as the "Parties") as of July 1, 2022 (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, 2025, and Contractor shall complete the work described in Exhibit A on or before that date, 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 [Intentionally Deleted]

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 ($159,742) one hundred and fifty-nine thousand, seven hundred forty two dollars, 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 between this Agreement and Contractor's proposal, attached as Exhibit A, regarding the amount of compensation, 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;
- 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;
- 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.

2.5 **[Intentionally Deleted]**.

2.6 **Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B. Expenses not listed in Exhibit B 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 **[Intentionally Deleted]**.

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.

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, 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 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.

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;
- 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 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 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.

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.

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.

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:

Advanced Integrated Pest Management
Attn: Gary Fonzi
4070 Nelson Avenue, Ste. J/K
Concord, CA 94520

Any written notice to City shall be sent to:

City of Dublin
Attn: 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 Exhibits A and B 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
Exhibit B	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.

SIGNATURES ON FOLLOWING PAGE

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

DocuSigned by:
Colleen Tribby
7A1EA4BC90AA48B...

For Linda Smith, City Manager

Attest:

DocuSigned by:
Marsha Moore
9BB708150226404...

Marsha Moore, City Clerk

Approved as to Form:

DocuSigned by:
4D33BDE7E6D8453...

City Attorney

ADVANCED INTEGRATED PEST MANAGEMENT

DocuSigned by:
Brian Romani
4C9140B60666487...

Brian Romani, President

Contractor's DIR Registration Number
(if applicable)

3070365.1

EXHIBIT A

SCOPE OF SERVICES

Contractor shall treat and/or provide for an environment that is free from, but not limited to, the following pests:

1. Spiders, cockroaches, and beetles
2. Crickets and grasshoppers
3. Ants (all species), earwigs, sow bugs, and silverfish
4. Fleas and other biting insects
5. Wasps, hornets and other stinging insects nesting in the interior or exterior, up to a maximum height of two (2) stories
6. Mice, rats, and other rodents

Pest control services shall be performed at all City facilities, as listed in Exhibit B.

All Contractor personnel shall wear a uniform with proper identification whenever working in or around any City facility. Contractor personnel shall schedule all visits prior to providing services with the Public Works Manager or designee, and Contractor personnel shall check in with City staff before performing services to receive an update on any issues that may have come up since the last routine service.

The Contractor personnel must perform a thorough inspection during routine service. Contractor personnel shall provide the City with an electronic copy of the inspection report within one week of service in order to report any issues that may be addressed by the City prior to the next scheduled service (i.e. trim vegetation away from building, install door sweeps, etc.).

Complaints and service requests between routine services must be addressed within 24 hours after notification and will be at no additional cost to the City.

All pest control services shall be performed in accordance with Federal, State and Local rules and regulations. Any and all chemicals used during the service must be approved for its intended use and applied in a manner consistent with the regulations established by the State of California Department of Pesticide Regulation and consistent with Federal and Cal OSHA standards.

Contactor shall establish and submit to the Public Works Manager a schedule of services to be performed at each facility. Each facility shall be serviced monthly, unless noted otherwise.

This Agreement will allow for additional facilities to be added to the list in Exhibit B as determined by the Public Works Manager, or their designee. In addition, Public Works Manager, or their designee, may approve, in writing, additional work for unforeseen services on top of items approved in this Agreement.

EXHIBIT B

COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

Site #	Facility	Floors	Interior Building	Exterior Building	Frequency	Total Monthly Rate	Total Annual Rate
1	City Hall 100 Civic Plaza	2	X	X	Monthly	$105	$1,260
2	Library 200 Civic Plaza	1	X	X	Monthly	$75	$900
3	Public Safety Complex 6363 Clark Avenue	1	X	X	Monthly	$105	$1,260
4	Shannon Center 11600 Shannon Avenue	1	X	X	Monthly	$75	$900
5	Senior Center 7600 Amador Valley Boulevard	1	X	X	Monthly	$75	$900
6	Heritage Park & Museum (Old St. Raymond Church & Schoolhouse) 6600 Donlon Way	1	X	X	Monthly	$70	$840
7	Historic Park (Kolb House) 6600 Donlon Way	1	X	X	Monthly	$60	$720
8	The WAVE 4201 Central Parkway	1	X	X	Monthly	$125	$1,500
9	City Corporation Yard 5709 Scarlett Court	1	X	X	Monthly	$75	$900
10	Fire Station 16 7494 Donohue Drive	1	X	X	Monthly	$60	$720
11	Fire Station 17 6700 Madigan Drive	1	X	X	Monthly	$60	$720
12	Fire Station 18 4800 Fallon Road	1	X	X	Monthly	$60	$720

The following sites/locations are located in the Camp Parks RFTA

150	Warehouse	2		X	Upon Request	$40	$480
162	Warehouse	1		X	Upon Request	$40	$480

171	Warehouse	1		X	Upon Request	$40	$480
275	Visitor Center	1	X	X	Weekly	$25	$300
277	Guard Shack	1	X	X	Weekly	$25	$300
278	Guard Shack	1	X	X	Weekly	$25	$300
282	Guard Shack	1	X	X	Weekly	$25	$300
300	Administrative	2	X	X	Monthly	$50	$600
301	Administrative	2	X	X	Monthly	$50	$600
302	Administrative	2	X	X	Monthly	$50	$600
303	Fitness Center	2	X	X	Weekly	$50	$600
304	Administrative	2	X	X	Monthly	$50	$600
306	Administrative	2	X	X	Monthly	$50	$600
309	Storage	1		X	Monthly	$40	$480
310	Administrative	2		X	Monthly	$50	$600
311	Administrative	1	X	X	Weekly	$50	$600
312	Administrative	1	X	X	Weekly	$50	$600
313	Warehouse	1		X	Monthly	$40	$480
320	Administrative	2		X	Monthly	$50	$600
321	Administrative	2		X	Monthly	$50	$600
330	Administrative	2		X	Upon Request	$50	$600
332	Dining Facility	3	X	X	Weekly	$100	$1200
334	Warehouse	1		X	Monthly	$40	$480
342	Storage	1		X	Monthly	$40	$480
350	Administrative	1	X	X	Weekly	$50	$600
360	Barracks	2	X	X	Weekly	$50	$600
361	Barracks	2	X	X	Weekly	$50	$600
362	Barracks	2	X	X	Weekly	$50	$600
363	Barracks	2	X	X	Weekly	$50	$600
364	Barracks	2	X	X	Weekly	$50	$600
373	Administrative	2	X	X	Weekly	$50	$600

387	Container Storage	1		X	Upon Request	$50	$600
388	Container Storage	1		X	Upon Request	$30	$360
389	Container Storage	1		X	Upon Request	$30	$360
390	Barracks	2	X	X	Monthly	$30	$360
391	Barracks	2	X	X	Monthly	$50	$600
392	Barracks	2	X	X	Monthly	$50	$600
393	Barracks	2	X	X	Monthly	$50	$600
394	Barracks	2	X	X	Monthly	$50	$600
398	Laundry Facility	1	X	X	Weekly	$50	$600
490	Vehicle Maintenance	1	X	X	Weekly	$40	$480
494	Warehouse	1	X	X	Weekly	$40	$480
495	Admin/Storage	1		X	Upon Request	$50	$600
510	Administrative	2	X	X	Weekly	$50	$600
511	Storage	1		X	Upon Request	$40	$480
512	Storage	1		X	Monthly	$40	$480
514	Administrative	1	X	X	Weekly	$50	$600
515	Storage	1		X	Monthly	$40	$480
516	Vehicle Maintenance	1		X	Monthly	$40	$480
517	Administration	2	X	X	Weekly	$50	$600
521	Administration/Rally	1	X	X	Weekly	$50	$600
522	Storage	1		X	Upon Request	$40	$480
610	Administrative	1	X	X	Weekly	$50	$600
612	Storage	1		X	Upon Request	$40	$480
620	Administrative	1	X	X	Weekly	$50	$600
628	Admin/Toilet	1		X	Upon Request	$50	$600
635	NEC Node	1		X	Upon Request	$40	$480
650	Administrative	2	X	X	Monthly	$50	$600

659	Administrative	3	X	X	Weekly	$50	$600
665	Admin/Storage	1	X	X	Monthly	$50	$600
677	Administrative	1	X	X	Monthly	$50	$600
685	Warehouse/Storage	1	X	X	Monthly	$50	$600
791	Admin/Shops	1	X	X	Weekly	$40	$480
1192	Access Control	1		X	Upon Request	$50	$600
1195	Range OPS/Storage	1		X	Upon Request	$50	$600
1206	Administrative	1		X	Upon Request	$50	$600
1209	Administrative	1		X	Upon Request	$50	$600
1211	Administrative	1		X	Upon Request	$50	$600
0396A	Baseball Dugout (R)	1		X	Upon Request	$25	$300
0396B	Baseball Dugout (L)	1		X	Upon Request	$25	$300
J1210	Administrative	1		X	Upon Request	$50	$600
MISC	Curbs	1		X	Bimonthly	$25	$300
MISC	Gravel Areas	1		X	Bimonthly	$25	$300
R0EST	Administrative	1		X	Upon Request	$50	$600
R396C	Baseball (Booth)	1		X	Upon Request	$25	$300
TR490	Showers	1		X	Upon Request	$25	$300

Agreement will allow for additional facilities to be added to the above list and approved by the Public Works Manager. In addition, the Public Works Manager may approve additional unforeseen services on top of items approved in this Agreement.

	Year 1	Year 2	Year 3	Total
City Facilities	$11,340	$11,680	$12,031	$35,051
Camp Parks – RFTA	$38,400	$39,552	$40,739	$118,691
Contingency	$2,000	$2,000	$2,000	$6,000
Totals	$51,740	$53,232	$54,770	$159,742

Please note, reimbursable expenses are built into rates as identified above.
Invoices shall be submitted electronically to: pwinvoices@dublin.ca.gov no more than once monthly and as work is completed.

Agenda Item 5.3

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Amendment to the Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance
Prepared by: Julius Pickney, Management Analyst II

EXECUTIVE SUMMARY:

The City Council will consider approving an amendment to the agreement with EOA, Inc. for Stormwater National Pollutant Discharge Elimination System (NPDES) Implementation Assistance.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance.

FINANCIAL IMPACT:

The cost of these services will be charged to the Public Works Department in accordance with the adopted annual operating budget, Capital Improvement Program project budgets, and/or developer deposit accounts. The proposed amendment will increase the not-to-exceed compensation of the agreement by $410,000, for a total contract amount of $860,000.

DESCRIPTION:

The Public Works Department utilizes consultants and contractors on Capital Improvement Program (CIP) projects, private development projects, and City operations and maintenance programs. On April 19, 2022, the City Council adopted Resolution 36-22 approving an agreement with EOA, Inc. for stormwater National Pollutant Discharge Elimination System (NPDES) implementation assistance. The work being done under the contract is approaching the current not-to-exceed amount of $450,000. The term of the existing agreement expires on June 30, 2025. Staff has prepared an amendment to the agreement to extend the term of service to June 30, 2027. The proposed amendment also revises the not-to-exceed compensation limit to $860,000, to reflect the cost of estimated services through the extended term. The amendment also includes a

replacement Exhibit B - Compensation Schedule & Reimbursable Expenses which reflects the current hourly rates of EOA, Inc. personnel allowed under the existing agreement.

The City of Dublin is a co-permittee of the Municipal Regional Stormwater NPDES Permit, also known as the MRP. The MRP is issued by the San Francisco Bay Regional Water Quality Control Board to meet the requirements of the federal Clean Water Act. The MRP is re-issued every five years. EOA, Inc. provides specialized technical and engineering services to support the City in its implementation of the MRP on a variety of projects. The need for consultant support towards MRP implementation tasks will continue for the foreseeable future due to the current MRP regulations and reporting requirements.

Since April 2022, EOA, Inc. has supported the City of Dublin's MRP implementation efforts through several activities and projects, which include:

- Reviewing development projects related to MRP-required Stormwater Management Maintenance Agreements.
- Assisting with tasks related to the Annual Report submitted to the San Francisco Bay Regional Water Quality Control Board.
- Developing a plan to eliminate trash discharges in stormwater (100% full trash capture).
- Updating the MRP Enforcement Response Plan, green stormwater infrastructure standard plans, and template specifications.
- Creating green stormwater infrastructure maintenance resources.
- Revising the Stormwater Pollution Plan for the Corporation Yard.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Resolution Approving an Amendment to the Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance
2) Exhibit A to Resolution – First Amendment to the Consulting Services Agreement with EOA, Inc.
3) Consulting Services Agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

APPROVING AN AMENDMENT TO THE AGREEMENT WITH EOA, INC. FOR STORMWATER NPDES IMPLEMENTATION ASSISTANCE

WHEREAS, on April 19, 2022, the City Council adopted Resolution No. 36-22 approving an agreement with EOA, Inc. for Stormwater NPDES Implementation Assistance; and

WHEREAS, the City and EOA, Inc. mutually desire to amend the agreement to extend the term to June 30, 2027, and set a not-to-exceed compensation amount of $860,000.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin does herby approve the amendment to the agreement with EOA, Inc., 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 **Exhibit A** to carry out the intent of this Resolution.

PASSED, APPROVED AND ADOPTED this 3rd day of December 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

Docusign Envelope ID: F90770EF-7B2C-4E73-A668-AA973F217E55

FIRST AMENDMENT TO CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF DUBLIN AND EOA, INC.

WHEREAS, on April 20, 2022, the City of Dublin (hereinafter referred to as "CITY") and EOA, Inc. (hereinafter referred to as "CONSULTANT") entered into a Consulting Services Agreement for Stormwater NPDES Implementation Assistance services (hereinafter referred to as the “AGREEMENT”); and

WHEREAS, the existing AGREEMENT will expire on June 30, 2025; and

WHEREAS, the CITY and CONSULTANT now wish to amend the AGREEMENT to extend the term through June 30, 2027 by modifying Section 1.1 of the AGREEMENT, and to increase the not to exceed compensation amount to $860,000 by modifying Section 2 of the AGREEMENT; and

WHEREAS, the CITY and CONSULTANT now wish to amend the AGREEMENT to update the Compensation Schedule & Reimbursable Expenses by replacing Exhibit B of the AGREEMENT.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the AGREEMENT is amended as follows:

1) The end of the term, set forth in section 1.1 of the AGREEMENT shall be extended until June 30, 2027.

2) The compensation amount, set forth in section 2 of the AGREEMENT shall be increased to a sum not to exceed $860,000.

3) Exhibit B shall be rescinded in its entirety and replaced with the attached revised exhibit.

4) Except to the extent inconsistent with this First Amendment, the Parties ratify and confirm all of the terms and conditions of the AGREEMENT.

5) All requisite insurance policies to be maintained by the CONSULTANT pursuant to the AGREEMENT, as may have been amended from time to time, shall include coverage for the amended term, as described above.

6) The individuals executing this First Amendment, and the instruments referenced in it on behalf of CONSULTANT each represent and warrant that they have the legal power, right and actual authority to bind CONSULTANT to the terms and conditions of this Amendment.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed as of the date of the City Manager's signature below.

CITY OF DUBLIN

By: _____
Colleen Tribby, City Manager

Dated: _____

EOA, INC.

DocuSigned by:
Ray Goebel
9422C67BED694BC...

By: _____
Ray Goebel, Vice President/Manager of Operations

ATTEST:

By: _____
Marsha Moore, City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

Docusign Envelope ID: F90770EF-7B2C-4E73-A668-AA973F217E55

EXHIBIT B – COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

EOA 2024 FEE SCHEDULE

The following fee schedule covers personnel rates for EOA, Inc. staff.

Our charges are divided into two categories: personnel, and direct expenses. A new fee schedule is issued at the beginning of each year. Charges for all work, except where other arrangements have been made, are based on the new schedule of charges.

PERSONNEL

Personnel charges are for any technical, clerical or administrative work necessary to perform the project. Work tasks include geologic and environmental consulting, engineering and computer services, regulatory liaison, and report preparation. Personnel rates are as follows:

Personnel Category	Hourly Rates
Principal	$320
Senior Managing Engineer/Scientist I	$316
Managing Engineer/Scientist III	$312
Managing Engineer/Scientist II	$294
Managing Engineer/Scientist I	$280
Senior Technical Specialist I	$270
Senior Engineer/Scientist III – Project Leader	$260
Senior Engineer/Scientist/Planner II	$236
Senior Engineer/Scientist/Planner I	$216
Associate Engineer/Scientist III	$206
Associate Engineer/Scientist II	$196
Associate Engineer/Scientist I	$166
Associate Engineer/Scientist	$150
Technician Administrative Manager	$130
Clerical/Computer Data Entry	$92

Charges for professional services are in increments of one quarter-hour. Depositions/legal testimony charged portal-to- portal, at 200% of standard rates, with a four-hour minimum charge. In accordance with California Civil Procedure 2037.7, where applicable, the minimum fee must be paid prior to commencement of testimony. Preparation for court cases is charged on a time-and-materials basis as outlined in this fee schedule.

DIRECT EXPENSES

Reimbursement for expenses directly related to services provided will be charged at cost plus 10%. Examples of such direct expenses include:

- Costs of sub-consultants or subcontractors
- Costs of special fees (insurance, permits, etc.)

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- Costs of copying, drafting, blueprints, etc. (EOA copies charged at $0.10 each for B&W, $0.35each for color. Large format $0.15/sq ft for B&W, $0.50/sq ft for color)
- Costs of color map production supplies (color ink and large format paper)
- Costs or rental of special equipment. Daily use fees of monitoring equipment charged at the following rates:
    - Single-parameter field meter - $10/day
    - Multi-parameter field meter and sonde - $100/day
- Costs of authorized travel and related expenses
- Costs of laboratory analyses

INVOICES

Invoices are prepared and submitted on a monthly basis, as either final or progress billings and are payable upon receipt unless prior arrangements have been made. Interest of 1-1/2% per month, or the maximum rate allowed by law, is payable on accounts not paid within 30 days.

All CPI increases shall be calculated by Consultant and requested for adjustment each May, effective each July 1st. Rate increases shall not exceed 3% and shall be based on the San Francisco Bay Area Consumer Price Index CPI for that period of time and this shall be submitted to the Public Works Management Analyst, or their designee, for approval prior to taking effect. Remit invoices to PWInvoices@dublin.ca.gov

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF DUBLIN AND
EOA, INC.
FOR
STORMWATER NPDES IMPLMENTATION ASSISTANCE**

THIS AGREEMENT for consulting services is made by and between the City of Dublin ("City") and EOA, Inc. ("Consultant") (together sometimes referred to as the "Parties") as of April 20, 2022 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant 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, 2025, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant 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 Consultant and the City Manager, provided that: a) sufficient funds have been appropriated for such purchase, b) the price charged by the Consultant 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. Consultant 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 Consultant is engaged.

1.3 Assignment of Personnel. Consultant 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, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Consultant 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 Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed $450,000 notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the

Agreement shall prevail. City shall pay Consultant 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 Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant 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.** Consultant 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;
- 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 Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant 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 Consultant 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 Consultant.

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 Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant 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 Consultant 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.

2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.

2.6 **Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B, and shall not exceed $6,000. Expenses not listed in Exhibit B 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.** Consultant 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 Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.9 **Authorization to Perform Services.** The Consultant 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.

Section 3. **FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant 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 Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Consultant, 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 Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant 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. Consultant 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 Consultant's bid or proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant 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. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Consultant 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 Consultant. 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, Consultant 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 entity for all work performed by the Consultant, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Consultant shall submit the following:

a. Certificate of Liability 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. Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than $1,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than $1,000,000 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 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 Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.

c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.

d. For any claims related to this Agreement or the work hereunder, the Consultant'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 Consultant's insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Consultant 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.

4.3 Professional Liability Insurance.

4.3.1 General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than $2,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed $150,000 per claim.

4.3.2 Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least 3 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 3 years after completion of work under this Agreement.

d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.3.3 Submittal Requirements. To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

4.4 All Policies Requirements.

4.4.1 **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.

4.4.2 **Verification of Coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant 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 Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 **Deductibles and Self-Insured Retentions.** Consultant 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 Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.4.4 **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).

4.4.5 **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.

4.4.6 **Subcontractors.** Consultant 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.

4.5 **Remedies.** In addition to any other remedies City may have if Consultant 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 Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant 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 Consultant only insofar as the results of Consultant'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 Consultant accomplishes services rendered pursuant to this Agreement. Consultant further acknowledges that Consultant performs Services outside the usual course of the City's business; and is customarily engaged in an independently established trade, occupation, or business of the same nature as the Consultant 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, Consultant 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 Consultant Not an Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant 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. Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

7.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant 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.** Consultant represents and warrants to City that Consultant 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. Consultant represents and warrants to City that Consultant 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, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

7.5 **Nondiscrimination and Equal Opportunity.** Consultant 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 for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement.

Consultant 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 Consultant.

Consultant 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, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant 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. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant 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 Consultant 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 Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant'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 Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant 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 Consultant shall survive the termination of this Agreement.

8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but are not 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 Consultant pursuant to this Agreement;

8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

8.6.4 Charge Consultant 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 Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 **Records Created as Part of Consultant'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 Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant 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 Consultant 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 **Consultant's Books and Records.** Consultant 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 Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant 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.

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 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant 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.*

Consultant 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 Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant 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.

At City's sole discretion, Consultant may be required to file with the City a Form 700 to identify and document Consultant's economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the Dublin City Clerk for the Form 700 and directions on how to prepare it.

10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 **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.

10.10 **Notices.** Any written notice to Consultant shall be sent to:
Kristin Kerr
EOA, Inc.
1410 Jackson Street
Oakland, CA 94612

Any written notice to City shall be sent to:

City of Dublin
Attn: Shannan Young, Environmental & Sustainability Manager
100 Civic Plaza

Dublin, CA 94568

10.11 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and C represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A	Scope of Services
Exhibit B	Compensation Schedule & Reimbursable Expenses
Exhibit C	Indemnification

10.12 **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.

10.13 **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 Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant 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.

SIGNATURES ON FOLLOWING PAGE

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

DocuSigned by:
Linda Smith
E33836CFFC044E0...
Linda Smith, City Manager

Attest:

DocuSigned by:
Marsha Moore
9BB70815D22F40A...
Marsha Moore, City Clerk

Approved as to Form:

DocuSigned by:
Jordyn Bishop for
5ED7F38973DC484...
City Attorney

EOA, Inc.

DocuSigned by:
Ray Goebel
9422C67BED694BC...
Ray Goebel, Vice President/Manager of Operations

3070368.1

EXHIBIT A

SCOPE OF SERVICES
Stormwater NPDES Implementation Assistance

During the period of this contract, the Consultant will provide specialized technical and engineering services, including labor, equipment, and/or materials, as needed, to support the City in its implementation of the Municipal Regional Stormwater NPDES Permit. Services requested may include a subset of the projects listed below, or all of the projects, as determined by the City.

On a task-by-task basis, specific work requirements, time frames for completion, and approximate cost or "not to exceed cost" shall be mutually agreed upon by Consultant and the City, as described pursuant to individual task orders, prior to commencement of each task. Rate of payment shall be as provided in the Fee Schedule, as shown in Exhibit B.

Category	Project	Description	Related MRP Provision(s)	Timeline
General Technical Support	Annual Report Preparation Assistance	Assist in data collection, analysis, and input of data required for the Annual Report to the Water Board, including special reports. Assist with report writing.	All	Reports due to the Water Board September 30 annually.
General Technical Support	Update the Corp Yard Stormwater Pollution Prevention Plan	Review and update the SWPPP for the City's Corp Yard.	C.2	FY2023
General Technical Support	Update to the spill response plan	Review and revise the City's spill response plan, including taking a photo inventory of existing spill response materials and vendors, and providing a list of suggested	C.5	FY2023

		supplemental materials.		
General Technical Support	Update the City's Enforcement Response Plan (ERP)	Review and revise the ERP, including making recommendations related to adjust how the City issues stormwater citations.	C.3, C.4, C.5	FY2023
General Technical Support	Update the City's Integrated Pest Management (IPM) Administrative Procedure	Review the City's IPM Administrative procedure and make recommendations for improvements to meet MRP requirements.	C.9	FY2023
General Technical Support	IPM verification inspections	Conduct training and periodic verification inspections that IPM practitioners are adhering to policies.	C.9	FY2023
General Technical Support	Report on database options	Provide a report on comprehensive stormwater database options. The database should interact with City databases and the Clean Water Program AGOL database.	All	FY2023
General Technical Support	Update reporting forms and documents	Update and develop reporting forms such the stormwater requirements checklist, CIP checklists, inspection checklists, O&M Agreement, etc.	All	As needed.
General Technical Support	Develop outreach materials	Develop outreach materials for print and web page applications (best management	All	As needed.

		practices and source control fact sheets, mailings, etc.) to support MRP required activities/programs.		
General Technical Support	Training support	Provide training support on various stormwater topics (e.g. develop PowerPoint presentations, procure encroachment permits for spill response training, procure supplies or equipment needed, coordinate schedules, etc.).	All	As needed.
Green Stormwater Infrastructure	GSI Program Implementation	Assist with updating municipal processes, ordinances, plans, and procedures to ensure the City's GSI Plan is being implemented.	C.3	As needed.
Green Stormwater Infrastructure	GSI concept plans	Assist in identifying and developing concept plans for potential GSI projects.	C.3	June 30, 2027 – 3.89 acres treated
Green Stormwater Infrastructure	Alternate Compliance Program	Assist with feasibility investigation and planning for a potential alternate compliance program in Dublin. Activities may include but are not limited to: conducting feasibility studies, determine type of program,	C.3	Complete FY2024

		identify technical and financial tracking procedures, and assist with developing a guidance manual.		
Green Stormwater Infrastructure	Bioretention soil mix (BSM) pilot studies	To maximize water retention in treatment facilities and reduce irrigation needs, conduct pilot studies to determine if adding biochar to the standard MRP BSM will meet the requirements for the alternative MRP BSM specification. If positive results are achievable, assist in implementing field pilot studies of the alternative mix.	C.3	Complete FY2024
Green Stormwater Infrastructure	Typical details & bid specifications	Develop new or update existing typical details and bid specifications.	C.3	As needed.
Trash Load Reduction	Analysis to determine how to get to 90% and 100% trash load reduction.	Help determine how the City will achieve 90% and 100% trash load reduction, including but not limited to the following: conducting on-land visual trash assessments, determining where and why it is technically infeasible to install full trash capture devices, conduct field surveys of installed devices	C.10	Complete by October 2022.

		and identifying alternative controls to full trash capture devices.		
Trash Load Reduction	Revised Trash load reduction plan	Assist with the development of a revised Trash Load Reduction plan, based on the trash load reduction analysis.	C.10	2023 AR
Trash Load Reduction	Private lands drainage area	Help determine an approach to private lands drainage areas to ensure they are managed by full trash capture devices or equivalent.	C.10	FY2023
Trash Load Reduction	Revised Trash Generation area map	Provide guidance on a revised trash generation area map, based on on-land visual trash assessments or other assessment methods.	C.10	2024 AR
PCB's and mercury reduction programs	Building demolition and bridge maintenance programs.	Help establish Dublin specific protocols. Conduct inspections of construction sites and review verification documents confirming that materials are properly disposed.	C12.	On-going
Cost Reporting	Accounting Tracking Framework	Assist with developing Dublin-specific accounting methods to support the cost reporting required in the new MRP 3 Cost Reporting Provision.	C.20	After Water Board Executive Officer approval of cost reporting framework

				and methodology (FY2023).
Cost Reporting	MRP 1 Unfunded Mandate	Assist with data-gathering, evaluation and standardization, as needed, to support Dublin as the lead claimant for the MRP 1 unfunded mandate test claim. To the extent feasible, the analysis shall follow the cost reporting format developed for the new MRP 3 Cost Reporting Provision.	C.20	Anticipated in FY2023.
Asset Management	Inventory storm drain inlet markers	Conduct field inspections to verify that municipally-owned storm drain inlets have storm drain medallions installed.	C.2	FY2025
Asset management	Complete update for missing MS4 elements	Assist with identifying information missing from MS4 maps and develop a plan and schedule to compile additional MS4 information, considering the potential to identify component locations, size or specifications, materials and construction and condition.	C.5	FY2025
Asset management	Asset Management Plan	Assist with development of an	C.21	FY2025

		asset management plan, including an O&M Rehab and Replacement Plan.		
Asset Management	GIS Development and Support	Assist with updating and maintaining City of Dublin data into the Clean Water Program's ArcGIS on-line database.	various	On-going
Miscellaneous	Miscellaneous	As-needed Stormwater Assistance not identified above	N/A	As-Needed

EXHIBIT B

COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

Environmental and Public Health Engineering

EOA 2022 FEE SCHEDULE

The following fee schedule covers personnel rates for EOA, Inc. staff.

Our charges are divided into two categories: personnel, and direct expenses. A new fee schedule is issued at the beginning of each year. Charges for all work, except where other arrangements have been made, are based on the new schedule of charges.

PERSONNEL

Personnel charges are for any technical, clerical or administrative work necessary to perform the project. Work tasks include geologic and environmental consulting, engineering and computer services, regulatory liaison, and report preparation. Personnel rates are as follows:

Personnel Category	Hourly Rates
Principal……..	$299
Managing Engineer/Scientist III…….	$291
Managing Engineer/Scientist II……..	$274
Managing Engineer/Scientist I……...	$262
Senior Engineer/Scientist III – Project Leader……...	$242
Senior Engineer/Scientist/Planner II……..	$220
Senior Engineer/Scientist/Planner I…….....	$202
Associate Engineer/Scientist III …….....	$192
Associate Engineer/Scientist II…….....	$183
Associate Engineer/Scientist I……	$155
Assistant Engineer/Scientist…….....	$140
Technician, Administrative Manager …..……..	$121
Clerical/Computer Data Entry……	$86

Charges for professional services are in increments of one quarter-hour. Depositions/legal testimony charged portal-to-portal, at 200% of standard rates, with a four-hour minimum charge. In accordance with California Civil Procedure 2037.7, where applicable, the minimum fee must be paid prior to commencement of testimony. Preparation for court cases is charged on a time-and-materials basis as outlined in this fee schedule.

DIRECT EXPENSES

Reimbursement for expenses directly related to services provided will be charged at cost plus 10%. Examples of such direct expenses include:

- Costs of sub-consultants or subcontractors
- Costs of special fees (insurance, permits, etc.)
- Costs of copying, drafting, blueprints, etc. (EOA copies charged at $0.10 each for B&W, $0.35 each for color. Large format $0.15/sq ft for B&W, $0.50/sq ft for color)
- Costs of color map production supplies (color ink and large format paper)
- Costs or rental of special equipment. Daily use fees of monitoring equipment charged at the following rates:
  - Single-parameter field meter - $10/day
  - Multi-parameter field meter and sonde - $100/day
- Costs of authorized travel and related expenses
- Costs of laboratory analyses

INVOICES

Invoices are prepared and submitted on a monthly basis, as either final or progress billings and are payable upon receipt unless prior arrangements have been made. Interest of 1-1/2% per month, or the maximum rate allowed by law, is payable on accounts not paid within 60 days.

EXHIBIT C

INDEMNIFICATION

A. Consultant shall, to the extent permitted by law, including without limitation California Civil Code 2782 and 2782.8, indemnify, hold harmless and assume the defense of, in any actions at law or in equity, the City, its employees, agents, volunteers, and elective and appointive boards, from all claims, losses, and damages, including property damage, personal injury, death, and liability of every kind, nature and description, arising out of, pertaining to or related to the negligence, recklessness or willful misconduct of Consultant or any person directly or indirectly employed by, or acting as agent for, Consultant, during and after completion of Consultant's work under this Agreement.

B. With respect to those claims arising from a professional error or omission, Consultant shall defend, indemnify and hold harmless the City (including its elected officials, officers, employees, and volunteers) from all claims, losses, and damages arising from the professionally negligent acts, errors or omissions of Consultant, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.

C. Consultant's obligation under this section does not extend to that portion of a claim caused in whole or in part by the sole negligence or willful misconduct of the City.

D. Consultant shall also indemnify, defend and hold harmless the City from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant's services under this Agreement, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.

DUBLIN
CALIFORNIA

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Amendment to the Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services
Prepared by: Julius Pickney, Management Analyst II

EXECUTIVE SUMMARY:

The City Council will consider approving an amendment to the agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services.

FINANCIAL IMPACT:

The cost of these services will be charged to the Public Works Department in accordance with the adopted annual operating budget, Capital Improvement Program project budgets, and/or developer deposit accounts. The proposed amendment will increase the not-to-exceed compensation of the agreement by $150,000, for a total contract amount of $400,000.

DESCRIPTION:

The Public Works Department utilizes consultants and contractors on Capital Improvement Program (CIP) Projects, private development projects, and City operations and maintenance programs. On May 4, 2021, the City Council adopted Resolution No. 41-21 approving an agreement with Francisco & Associates, Inc. for acquisition audit and administration services. The term of the agreement expires on December 31, 2024. Staff prepared an amendment to the agreement to extend the term of service to December 31, 2026. The proposed amendment also revises the not-to-exceed compensation limit to $400,000, to reflect the cost of estimated services through the extended term.

Updated hourly consultant rates reflect current market rates for these services. Updated lump

sum fees for the assessment districts and the emergency medical services tax have increased approximately 10%, which aligns with the annual consumer price index increases since May 2021. The residential garbage and recycling service lump sum fee has increased to reflect actual time needed to coordinate new residential garbage and recycling accounts, align property address records with the County Assessor, and to coordinate with Amador Valley Industries.

Staff recommends additional services be included in the proposed amendment in the form of an updated scope of services. The updated scope of services includes acquisition and audit services for both the Francis Ranch Community Facilities District (CFD 2023-1) and the Dublin Centre Community Facilities District (CFD 2025-1), in addition to the existing Dublin Crossing Community Facilities District (CFD 2015-1). Staff is also recommending adding as-needed services for PG&E account consolidation and auditing, as well as mapping services related to the interface of City, property owner, and/or homeowner association lands and utilities. The as-needed services relate to both Landscape and Lighting Maintenance Districts and Community Facilities Districts.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Resolution Approving an Amendment to the Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services
2) Exhibit A to the Resolution – Amendment to Consulting Services Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services
3) Consulting Services Agreement with Francisco & Associates, Inc. for Acquisition Audit Services and Administration Services

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

APPROVING AN AMENDMENT TO THE AGREEMENT WITH FRANCISCO & ASSOCIATES, INC. FOR ACQUISITION AUDIT SERVICES AND ADMINISTRATION SERVICES

WHEREAS, On May 4, 2021, the City Council adopted Resolution No. 41-21 approving an agreement with Francisco & Associates, Inc. for Acquisition Audit and Administration Services; and

WHEREAS, the City and Francisco & Associates, Inc. mutually desire to amend the agreement to extend the term to December 31, 2026, set a not-to-exceed amount of $400,000, update the Scope of Services, and update consultant fees and hourly rates.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin does hereby approve the amendment to the agreement with Francisco & Associates, Inc., 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 **Exhibit A** to carry out the intent of this Resolution.

PASSED, APPROVED AND ADOPTED this 3rd day of December 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

Docusign Envelope ID: 8B485857-7E1B-414E-BD82-F4C61DB31854

FIRST AMENDMENT TO CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF DUBLIN AND FRANCISCO & ASSOCIATES, INC.

WHEREAS, on July 1, 2021, the City of Dublin (hereinafter referred to as "CITY") and Francisco & Associates, Inc. (hereinafter referred to as " CONSULTANT ") entered into a Consulting Services Agreement for Acquisition Audit Services and Administration Services (hereinafter referred to as the “AGREEMENT”); and

WHEREAS, the existing AGREEMENT will expire on December 31, 2024; and

WHEREAS, after July 1, 2021, the CITY formed two new Community Facilities Districts, Community Facilities District No. 2023-1 East Ranch (CFD No. 2023-1) and Community Facilities District No. 2024-1 Dublin Centre (CFD No. 2024-1), in accordance with the Mello-Roos Community Facilities Act of 1982; and

WHEREAS, CFD No. 2023-1 and CFD No. 2024-1 will require acquisition audit services; and

WHEREAS, the CITY and CONSULTANT now wish to amend the AGREEMENT to extend the term through December 31, 2026 by modifying Section 1.1 of the Agreement, and to increase the not to exceed compensation amount to $400,000 by modifying Section 2 of the Agreement; and

WHEREAS, the CITY and CONSULTANT now wish to amend the AGREEMENT to amend Exhibit A - Scope of Services and Exhibit B - Compensation Schedule & Reimbursable Expenses, of the AGREEMENT to include CFD No. 2023-1 and CFD No. 2024-1 acquisition audit services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the AGREEMENT is amended as follows:

1) The end of the term, set for in section 1.1 of the AGREEMENT shall be extended until December 31, 2026.

2) The compensation amount, set forth in section 2 of the AGREEMENT shall be increased to a sum not to exceed $400,000.

3) Exhibit A shall be rescinded in its entirety and replaced with the attached revised exhibit.

4) Exhibit B shall be rescinded in its entirety and replaced with the attached revised exhibit.

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5) Except to the extent inconsistent with this First Amendment, the Parties ratify and confirm all of the terms and conditions of the AGREEMENT.

6) All requisite insurance policies to be maintained by the CONSULTANT pursuant to the AGREEMENT, as may have been amended from time to time, shall include coverage for the amended term, as described above.

7) The individuals executing this Amendment, and the instruments referenced in it on behalf of CONSULTANT each represent and warrant that they have the legal power, right and actual authority to bind CONSULTANT to the terms and conditions of this Amendment.

SIGNATURES ON THE FOLLOWING PAGE

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IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed as of the date of the City Manager's signature below.

CITY OF DUBLIN

By: _____
Colleen Tribby, City Manager

Dated: _____

FRANCISCO & ASSOCIATES, INC.

By: DocuSigned by: Ed Espinoza BCA3404B2934424... _____
Ed Espinoza, Principal

ATTEST:

By: _____
Marsha Moore, City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

Docusign Envelope ID: 8B485857-7E1B-414E-BD82-F4C61DB31854

EXHIBIT A

SCOPE OF SERVICES

INTRODUCTION

Consultant shall provide professional services for a number of governmental service districts, specifically acquisition and audit services for Community Facilities Districts, and administrative services for Landscaping and Lighting Maintenance Districts, Emergency Medical Service Districts (EMS), and Residential Recycling and Trash Service Districts.

Acquisition and Audit Services for Community Facilities Districts (CFD 2015-1, 2023-1, and 2024-1)

City of Dublin Community Facilities Districts No. 2015-1 (Dublin Crossing), No. 2023-1 (East Ranch), and No. 2024-1 (Dublin Centre) were formed in accordance with the Mello-Roos Community Facilities Act of 1982 (Act). CFD 2015-1 was formed for the acquisition of public improvements, which include capital public improvements, public fees, and private utility facilities authorized by the Act. CFD 2023-1 and CFD 2024-1 were formed to finance certain public services and the acquisition or construction of certain public facilities in their respective districts. Consultant shall review existing agreements and formation documents, create an acquisition audit review process, review improvement plans, bid documents, schedule of values, and review acquisition reimbursement applications.

- **Project Research and Process Establishment.** Consultant shall review existing agreements between the City of Dublin and the Developers pertaining to CFD 2015-1, 2023-1, and 2024-1. Consultant shall also establish a procedure and process, in coordination with the Developers, for the submission, review, and approval of reimbursement of authorized improvements and fees. Consultant shall provide feedback and suggestions to both the City and Developers on methods to streamline the review and reimbursement process.

- **Review of Developer Reimbursement Requests.** Consultant shall review each reimbursement request submitted by the Developers pursuant to the Acquisition Agreement. When needed, Consultant shall request, in writing, additional documentation from the developer to substantiate acquisition eligibility when required. Upon completion of review, Consultants shall prepare and submit a written report that documents and provides the following:

    - A summary of costs to be reimbursed for each facility and/or discrete component
    - An executive summary and audit summary
    - Improvement location map
    - A summary listing of hard and soft costs
    - A contract summary outlining the original price, change orders (if any), final contract price, and the eligible, disallowed and ineligible portions for reimbursement including an analysis based on the lessor of cost or value

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- A summary of invoices, proof of payment, and lien releases provided by the developer
- A recommendation from Consultant of the cost that is eligible and appropriate for reimbursement
- Consultant will be asked to review both electronic as well as hard copy reimbursement requests
- Consultant will need to be able to review and respond to reimbursement requests within ten business days.
- Documentation. All final reports and associated documents shall be filed with the City. Consultant shall provide a tracking report of each reimbursement processed and a tracking report for cumulative reimbursements to-date. Consultant shall maintain all records for up to three years after the conclusion of work performed and make this available to the City, upon request. All work products will become property of the City and provided in the format requested.

Administrative Services for Landscaping and Lighting Maintenance Districts (LLMDs)

Consultant shall administer five Landscaping and Lighting Maintenance Districts formed pursuant to the Landscape and Lighting Act of 1972. The selected firm will collect data, review budgets, prepare annual Engineer's Report, submit annual levy to the County tax collector, and prepare manual bills (hand bills) for assessments levied on properties that do not receive a property tax bill.

Annual tasks will include:

1. Preparing and completing an annual Engineer's Report for each District.
2. Completing an updated yearly assessment roll and submitting this to the County tax collector for billing purposes
3. Identifying and hand billing all parcels which are not billed by County tax collector (this may include back billing if any such parcels are identified)
4. Keeping the City apprised of any changes to legal requirements for district operations
5. Working with City staff on revenue analysis for forecasting and budget purposes (as needed)
6. Working with City staff to identify future Capital Improvement needs within districts

Districts

1. Citywide Street Lighting Maintenance Assessment District 1983-1

2. Landscaping and Lighting Maintenance Assessment District 1983-2 (Stagecoach Road)

3. Landscaping and Lighting Maintenance Assessment District 1986-1 (Dougherty Road)

4. Landscaping and Lighting Maintenance Assessment District 1997-1 (Santa Rita Area)

5. Dublin Ranch Street Lighting Maintenance Assessment District 1999-1

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Administrative Services for Emergency Medical Services Tax (EMS Tax)

Consultant shall manage the administration of this tax collection, to include reporting all levy assessment changes to county tax collector offices.

Annual tasks will include:

1. Completing an annual report, to include a review of the tax roll and identification of all parcels in need of manual billing. This report should include a list of all parcels that are paying the EMS tax in both Excel and PDF format.
2. Completing an updated yearly assessment roll and submitting this to the County tax collector for billing purposes.
3. Identifying and handbilling all parcels which are not billed by County tax collector (this may include back billing if any such parcels are identified). (Issuing of invoices is an optional task)
4. Keeping the City apprised of any changes to legal requirements for district operations.
5. Working with City staff on revenue analysis for forecasting and budget purposes (as needed).

Administrative Services for Residential Garbage & Recycling Services Fee (RGR)

The City contracts with a private company to provide garbage and recycling collection, which is billed on the County Property Tax Roll with an annual flat rate. Consultant shall manage the administration of this tax collection, to include reporting all levy assessment changes to county tax collector offices.

Annual tasks will include:

1. Completing an annual report, to include a review of the tax roll and identification of all parcels in need of manual billing. This report should include a list of all parcels that are paying the refuse charge in both Excel and PDF format.
2. Completing an updated yearly assessment roll and submitting this to the County tax collector for billing purposes.
3. Keeping the City apprised of any changes to legal requirements for district operations.
4. Working with City staff on revenue analysis for forecasting and budget purposes (as needed).

Administrative Services – Additional Analysis and As-needed Services

Consultant shall provide additional services, as needed, to assist the City with additional analysis, budget, or consultation related to the following:

- Community Facilities District No. 2015-1, 2023-1, and 2024-1
- Landscaping and Lighting District Nos. 1983-2, 1986-1, and 1997-1
- Street Lighting Maintenance Assessment District Nos. 1983-1, and 1999-1
- Emergency Medical Service Tax Collection Services

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- Residential Garbage and Recycling Fee Collection Services
- PG&E Account Consolidation and Auditing
- Mapping of improvements to identify if maintenance responsibility belongs to City, HOA, or property owners.

Engineers' Reports and budgets shall be adjusted, as applicable, to account for these additional as-needed services.

ADMINISTRATION OF FEES COLLECTED ON PROPERTY TAX BILL

For all assessment districts which will require submission to the Alameda County tax assessor, the following tasks will be required:

1. **Identify Any Changes from Prior Year**: Consultant will need to obtain the new tax roll from the Alameda County Assessor, or other sources. As part of the budget planning process, selected firm will need to determine changes that occur from one year to the next in terms of increases or decreases in number or size of parcels and adjust figures accordingly. Consultant shall notify City of year-to-year changes.

2. **Review of City Staff Prepared Budget Expenditure Estimates**: Assist by providing professional review of the components included in the preliminary budget expenditure estimates prepared by City Staff. Provide input on any discrepancies based upon typical components of a property related fee program. Be sure to include an annual review of all new properties coming online from new development.

3. **Assist City Staff in Preparing Budget Revenue Estimates**: Based on data collected in earlier steps, provide City Staff with an automated summary table to calculate scenarios comparing expenditures to projected revenue. Please describe the format used to provide revenue projections and all escalators, such as including CPI and utility increases, as well as all methodology and assumptions used. City Staff and selected consultant will work together to ensure that all projected budgets for districts match the City's expenditure budget and revenue estimates for the City's two-year budget cycle. Additionally, revenue forecast methodology should allow for the City to supplement the fee revenue with other sources and/ or to recognize the application of prior year fund balance in calculating the maximum allowable assessment, desired reserve balance, and actual assessment. Consultant shall become familiar with City fee philosophy and assessment district history; and other issues related to the continued successful operation of the assessment district.

4. **Scheduling of Tasks**: Consultant shall meet with Staff in the initial stages of the project to jointly establish preliminary dates for any scheduled public meeting and/or required public hearing. Consultant and City Staff shall verify that the schedule will meet required steps necessary to complete the process within the timelines required by law. Consultant shall have available preliminary assessment roll information as of the date of Public Hearings. In addition, Consultant will work within a specified

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timeframe to allow for completion of budget projections prior to City's internal budget deadlines.

5. **Attendance at Public Meetings**: Consultant shall be prepared to attend two City Council meetings to answer questions related to Districts. This is an optional task for Community Facilities Districts as well as the five Landscaping and Lighting Maintenance Districts (LLMD generally all held together at the same City Council Meeting). (OPTIONAL TASK)

6. **Preparation of Engineer's Annual Levy Report**: Prepare five Engineer's Annual Levy Reports in accordance with legal requirements for Landscaping and Lighting Assessment Districts. Report shall include justification of levies, method of apportionment, district budget, and specific levies for parcels.

7. **Notice & Ballots**: If determined to be required by City Staff, assist with the data necessary to allow the City to distribute legal notices and ballots to be mailed due to increased assessments in accordance with legal requirements. (OPTIONAL TASK)

8. **Tax Roll Levy Submittal**: The selected firm shall submit the final levy for each fee / assessment to the County in the required format and by the date required, prior to the date specified by the County for each assessment district or fee specified. Assessments rejected by the County will be researched and resubmitted for collection on the County Tax Roll. Identified corrections shall also be submitted on an as needed basis in consultation with City Staff.

9. **Handbilling**: Selected firm will need to identify and prepare a handbilling report in order to identify parcels subject to assessment (this applies to parcels exempt from property taxes, to include City owned land, County owned land, and tenants of City or County owned land). Selected firm will need to complete an assessment of such parcels, provide to City and work to determine eligibility and/or exemptions from this assessment. Selected firm will complete an annual report to Finance for tracking purposes. (OPTIONAL TASK)

10. **Provide Customer Service for Taxpayer Inquiries**: Act as the primary point of contact for any questions regarding Assessment Districts, fees, and tax bills. Consultant firm shall have their phone number listed on the property tax bill for each district, tax, and fee.

11. **Final Written Reports**: Firm selected shall also provide the City with a summary report of the total units assessed by the levy designation and County.

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EXHIBIT B

COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

The following is a listing of fees by project/tasks. These fees do not include tasks associated with conducting Proposition 218 balloting proceedings should the City decide to increase assessments. If the City decides to increase assessments, a supplemental proposal will be prepared to cover the mailing and balloting services.

Acquisition Audit for CFD Nos. 2015-1, 2023-1, 2024-1	T&M (Hourly Rates Below)
Landscape and Lighting Maintenance Districts	
Street Lighting Maintenance Districts No.1983-1	$6,325 (Lump Sum)
Landscaping and Lighting Districts No. 1983-2	$3,250 (Lump Sum)
Landscaping and Lighting Districts No. 1986-1	$3,250 (Lump Sum)
Landscaping and Lighting Districts No. 1997-1	$3,250 (Lump Sum)
Street Lighting Maintenance Districts No. 1999-1	$4,350 (Lump Sum)
Emergency Medical Services Tax (EMS Tax)	$3,025 (Lump Sum)
Residential Garbage & Recycling Service Fee (RGR)	$4,950 (Lump Sum)

Additional Analysis and As-needed Services	T & M (Hourly Rates Below)

Francisco & Associates Current Billing Rate for Francisco & Associates, Inc.

Principal Engineer/Project Manager	$205.00/hour
Associate Engineer	$165.00/hour
Senior Project Analyst	$150.00/hour
Project Analyst	$130.00/hour
Clerical	$80.00/hour

Optional Tasks:

Proposition 218 Notices and Ballots	T & M (Hourly Rates Above)

Reimbursables would be billed at cost plus 15%. Reimbursable costs include County Assessor data and maps, mileage, etc. Estimated not to exceed $1,000. Mileage would be billed at current IRS standard mileage rates.

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CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF DUBLIN AND FRANCISCO & ASSOCIATES, INC. FOR ACQUISITION AUDIT SERVICES AND ADMINISTRATION SERVICES

THIS AGREEMENT for consulting services is made by and between the City of Dublin ("City") and Francisco & Associates, Inc. ("Consultant") (together sometimes referred to as the "Parties") as of July 1, 2021 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant 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 December 31, 2024, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant 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 Consultant and the City Manager, provided that: a) sufficient funds have been appropriated for such purchase, b) the price charged by the Consultant 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. Consultant 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 Consultant is engaged.

1.3 Assignment of Personnel. Consultant 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, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Consultant 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 Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed $250,000, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be

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performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant 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 Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant 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.** Consultant 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;
- 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 Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of

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Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant 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 Consultant 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 Consultant.

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 Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant 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 Consultant 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.

2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.

2.6 **Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B and shall not exceed $2,000. Expenses not listed in Exhibit B 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.** Consultant 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 Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.9 **Authorization to Perform Services.** The Consultant 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.

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Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant 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 Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Consultant, 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 Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant 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. Consultant 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 Consultant's bid or proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant 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. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Consultant 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 Consultant. 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, Consultant 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 entity for all work performed by the Consultant, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Consultant shall submit the following:

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a. Certificate of Liability 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. Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than $1,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than $1,000,000 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 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 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 Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.

c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.

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d. For any claims related to this Agreement or the work hereunder, the Consultant'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 Consultant's insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Consultant 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.

4.3 Professional Liability Insurance.

4.3.1 General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than $2,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed $150,000 per claim.

4.3.2 Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.

d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

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4.3.3 **Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy.

4.3.4 **Submittal Requirements.** To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

4.4 **All Policies Requirements.**

4.4.1 **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.

4.4.2 **Verification of Coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant 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 Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 **Deductibles and Self-Insured Retentions.** Consultant 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 Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.4.4 **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).

4.4.5 **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.

4.4.6 **Subcontractors.** Consultant 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.

4.5 **Remedies.** In addition to any other remedies City may have if Consultant 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

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are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant 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 Consultant only insofar as the results of Consultant'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 Consultant accomplishes services rendered pursuant to this Agreement. Consultant further acknowledges that Consultant performs Services outside the usual course of the City's business; and is customarily engaged in an independently established trade, occupation, or business of the same nature as the Consultant 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, Consultant 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 Consultant Not an Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant 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.

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7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant 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.** Consultant represents and warrants to City that Consultant 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. Consultant represents and warrants to City that Consultant 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, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

7.5 **Nondiscrimination and Equal Opportunity.** Consultant 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 for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement.

Consultant 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 Consultant.

Consultant 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, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs,

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computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant 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. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant 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 Consultant 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 Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant'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 Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant 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 Consultant shall survive the termination of this Agreement.

8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but are not 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 Consultant pursuant to this Agreement;

8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

8.6.4 Charge Consultant 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 Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

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9.1 **Records Created as Part of Consultant'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 Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant 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 Consultant 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 **Consultant's Books and Records.** Consultant 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 Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant 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.

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.

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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 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant 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.*

Consultant 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 Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant 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.

At City's sole discretion, Consultant may be required to file with the City a Form 700 to identify and document Consultant's economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the Dublin City Clerk for the Form 700 and directions on how to prepare it.

10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 **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.

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10.10 **Notices.** Any written notice to Consultant shall be sent to:

Ed Espinoza, Principal
Francisco & Associates, Inc.
231 Market Place, Suite 543
San Ramon, 94583

Any written notice to City shall be sent to:

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

10.11 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A	Scope of Services
Exhibit B	Compensation Schedule & Reimbursable Expenses
Exhibit C	Indemnification

10.12 **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.

10.13 **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 Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant 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.

SIGNATURES ON FOLLOWING PAGE

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

DocuSigned by:
Linda Smith
E33836CFFC044E0...
Linda Smith, City Manager

Attest:

DocuSigned by:
Marsha Moore
9BB70815D22F40A...
Marsha Moore, City Clerk

Approved as to Form:

DocuSigned by:
Jordyn Bishop for
5ED7F38973DC484...
City Attorney

FRANCISCO & ASSOCIATES, INC.

DocuSigned by:
Ed Espinoza
BCA3404B2934424...
Ed Espinoza, Principal

Consultant's DIR Registration Number
(if applicable)

3070368.1

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EXHIBIT A

SCOPE OF SERVICES

INTRODUCTION

Consultant shall provide professional services for a number of governmental service districts, specifically acquisition and audit services for Community Facilities Districts, and administrative services for Landscaping and Lighting Maintenance Districts, Emergency Medical Service Districts (EMS), and Residential Recycling and Trash Service Districts.

Acquisition and Audit Services for Community Facilities District (CFD 2015-1)

City of Dublin Community Facilities District No. 2015-1 (Dublin Crossing) was formed in accordance with the Mello-Roos Community Facilities Act of 1982 (Act). CFD 2015-1 was formed for the acquisition of public improvements, which include capital public improvements, public fees, and private utility facilities authorized by the Act. Consultant shall review existing agreements and formation documents, create an acquisition audit review process, review improvement plans, bid documents, schedule of values, and review acquisition reimbursement applications.

- **Project Research and Process Establishment.** Consultant shall review existing agreements between the City of Dublin and the Developer pertaining to CFD 2015-1. Consultant shall also establish a procedure and process, in coordination with the Developer, for the submission, review, and approval of reimbursement of authorized improvements and fees. Consultant shall provide feedback and suggestions to both the City and Developer on methods to streamline the review and reimbursement process.
- **Review of Developer Reimbursement Requests.** Consultant shall review each reimbursement request submitted by the Developer pursuant to the Acquisition Agreement. When needed, Consultant shall request, in writing, additional documentation from the developer to substantiate acquisition eligibility when required. Upon completion of review, Consultant shall prepare and submit a written report that documents and provides the following:
  - A summary of costs to be reimbursed for each facility and/or discrete component
  - An executive summary and audit summary
  - Improvement location map
  - A summary listing of hard and soft costs
  - A contract summary outlining the original price, change orders (if any), final contract price, and the eligible, disallowed and ineligible portions for reimbursement including an analysis based on the lessor of cost or value
  - A summary of invoices, proof of payment, and lien releases provided by the developer
  - A recommendation from Consultant of the cost that is eligible and appropriate for reimbursement
  - Consultant will be asked to review both electronic as well as hard copy reimbursement requests
  - Consultant will need to be able to review and respond to reimbursement requests within ten business days.

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- Documentation. All final reports and associated documents shall be filed with the City. Consultant shall provide a tracking report of each reimbursement processed and a tracking report for cumulative reimbursements to-date. Consultant shall maintain all records for up to three years after the conclusion of work performed and make this available to the City, upon request. All work products will become property of the City and provided in the format requested.

Administrative Services for Landscaping and Lighting Maintenance Districts (LLMDs)

Consultant shall administer five Landscaping and Lighting Maintenance Districts formed pursuant to the Landscape and Lighting Act of 1972. The selected firm will collect data, review budgets, prepare annual Engineer's Report, submit annual levy to the County tax collector, and prepare manual bills (hand bills) for assessments levied on properties that do not receive a property tax bill.

Annual tasks will include:

1. Preparing and completing an annual Engineer's Report for each District.
2. Completing an updated yearly assessment roll and submitting this to the County tax collector for billing purposes
3. Identifying and handbilling all parcels which are not billed by County tax collector (this may include back billing if any such parcels are identified)
4. Keeping the City apprised of any changes to legal requirements for district operations
5. Working with City staff on revenue analysis for forecasting and budget purposes (as needed)
6. Working with City staff to identify future Capital Improvement needs within districts

Districts

1. Citywide Street Lighting Maintenance Assessment District 1983-1
2. Landscaping and Lighting Maintenance Assessment District 1983-2 (Stagecoach Road)
3. Landscaping and Lighting Maintenance Assessment District 1986-1 (Dougherty Road)
4. Landscaping and Lighting Maintenance Assessment District 1997-1 (Santa Rita Area)
5. Dublin Ranch Street Lighting Maintenance Assessment District 1999-1

Administrative Services for Emergency Medical Services Tax (EMS Tax)

Consultant shall manage the administration of this tax collection, to include reporting all levy assessment changes to county tax collector offices.

Annual tasks will include:

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1. Completing an annual report, to include a review of the tax roll and identification of all parcels in need of manual billing. This report should include a list of all parcels that are paying the EMS tax in both an Excel and PDF format.
2. Completing an updated yearly assessment roll and submitting this to the County tax collector for billing purposes.
3. Identifying and handbilling all parcels which are not billed by County tax collector (this may include back billing if any such parcels are identified). (Issuing of invoices is an optional task)
4. Keeping the City apprised of any changes to legal requirements for district operations.
5. Working with City staff on revenue analysis for forecasting and budget purposes (as needed).

Administrative Services for Residential Garbage & Recycling Services Fee (RGR)

The City contracts with a private company to provide garbage and recycling collection, which is billed on the County Property Tax Roll with an annual flat rate. Consultant shall manage the administration of this tax collection, to include reporting all levy assessment changes to county tax collector offices.

Annual tasks will include:

1. Completing an annual report, to include a review of the tax roll and identification of all parcels in need of manual billing. This report should include a list of all parcels that are paying the refuse charge in both an Excel and PDF format.
2. Completing an updated yearly assessment roll and submitting this to the County tax collector for billing purposes.
3. Keeping the City apprised of any changes to legal requirements for district operations.
4. Working with City staff on revenue analysis for forecasting and budget purposes (as needed).

Administrative Services – Additional Analysis and As-needed Services

Consultant shall provide additional services, as needed, to assist the City with additional analysis, budget, or consultation related to the following:

- Community Facilities District No. 2015-1
- Landscaping and Lighting District Nos. 1983-2, 1986-1, and 1997-1
- Street Lighting Maintenance Assessment District Nos. 1983-1, and 1999-1
- Emergency Medical Service Tax Collection Services
- Residential Garbage and Recycling Fee Collection Services

Engineer's Reports and budgets shall be adjusted, as applicable, to account for these additional as-needed services.

ADMINISTRATION OF FEES COLLECTED ON PROPERTY TAX BILL

For all assessment districts which will require submission to the Alameda County tax assessor, the following tasks will be required:

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1. **Identify Any Changes from Prior Year**: Consultant will need to obtain the new tax roll from the Alameda County Assessor, or other sources. As part of the budget planning process, selected firm will need to determine changes that occur from one year to the next in terms of increases or decreases in number or size of parcels and adjust figures accordingly. Consultant shall notify City of year to year changes.

2. **Review of City Staff Prepared Budget Expenditure Estimates**: Assist by providing professional review of the components included in the preliminary budget expenditure estimates prepared by City Staff. Provide input on any discrepancies based upon typical components of a property related fee program. Be sure to include an annual review of all new properties coming online from new development.

3. **Assist City Staff in Preparing Budget Revenue Estimates**: Based on data collected in earlier steps, provide City Staff with an automated summary table to calculate scenarios comparing expenditures to projected revenue. Please describe the format used to provide revenue projections and all escalators, such as including CPI and utility increases, as well as all methodology and assumptions used. City Staff and selected consultant will work together to ensure that all projected budgets for districts match to the City's expenditure budget and revenue estimates for the City's two year budget cycle. Additionally, revenue forecast methodology should allow for the City to supplement the fee revenue with other sources and/ or to recognize the application of prior year fund balance in calculating the maximum allowable assessment, desired reserve balance, and actual assessment. Consultant shall become familiar with City fee philosophy and assessment district history; and other issues related to the continued successful operation of the assessment district.

4. **Scheduling of Tasks**: Consultant shall meet with Staff in the initial stages of the project to jointly establish preliminary dates for any scheduled public meeting and/or required public hearing. Consultant and City Staff shall verify that the schedule will meet required steps necessary to complete the process within the timelines required by law. Consultant shall have available preliminary assessment roll information as of the date of Public Hearings. In addition, Consultant will work within a specified timeframe to allow for completion of budget projections prior to City's internal budget deadlines.

5. **Attendance at Public Meetings**: Consultant shall be prepared to attend two City Council meetings to answer questions related to Districts. This is an optional task for Community Facilities Districts as well as the five Landscaping and Lighting Maintenance Districts (LLMD generally all held together at the same City Council Meeting). (OPTIONAL TASK)

6. **Preparation of Engineer's Annual Levy Report**: Prepare five Engineer's Annual Levy Reports in accordance with legal requirements for Landscaping and Lighting Assessment Districts. Report shall include justification of levies, method of apportionment, district budget, and specific levies for parcels.

7. **Notice & Ballots**: If determined to be required by City Staff, assist with the data necessary to allow the City to distribute legal notices and ballots to be mailed due to increased assessments in accordance with legal requirements. (OPTIONAL TASK)

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8. **Tax Roll Levy Submittal**: The selected firm shall submit the final levy for each fee / assessment to the County in the required format and by the date required, prior to the date specified by the County for each assessment district or fee specified. Assessments rejected by the County will be researched and resubmitted for collection on the County Tax Roll. Identified corrections shall also be submitted on an as needed basis in consultation with City Staff.

9. **Handbilling**: Selected firm will need to identify and prepare a handbilling report in order to identify parcels subject to assessment (this applies to parcels exempt from property taxes, to include: City owned land, County owned land, and tenants of City or County owned land). Selected firm will need to complete an assessment of such parcels, provide to City and work to determine eligibility and/or exemptions from this assessment. Selected firm will complete an annual report to Finance for tracking purposes. (OPTIONAL TASK)

10. **Provide Customer Service for Taxpayer Inquiries**: Act as the primary point of contact for any questions regarding Assessment Districts, fees, and tax bills. Consultant firm shall have their phone number listed on the property tax bill for each district, tax, and fee.

11. **Final Written Reports**: Firm selected shall also provide the City with a summary report of the total units assessed by the levy designation and County.

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EXHIBIT B

COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

The following is a listing of estimated fees by project/tasks. These fees do not include tasks associated with conducting a Proposition 218 balloting election should the City decide to increase assessments. If the City decides to increase assessments, a supplemental proposal will be prepared to cover the mailing and balloting services.

Acquisition Audit for CFD 2015-1	T & M (Hourly Rates Below)
Landscape and Lighting Maintenance Districts	
Street Lighting Maintenance Districts No. 1983-1	$5,750 (Lump Sum)
Landscaping and Lighting Districts No. 1983-2	$2,950 (Lump Sum)
Landscaping and Lighting Districts No. 1986-1	$2,950 (Lump Sum)
Landscaping and Lighting Districts No. 1997-1	$2,950 (Lump Sum)
Street Lighting Maintenance Districts No. 1999-1	$3,950 (Lump Sum)
Emergency Medical Services Tax (EMS Tax)	$2,750 (Lump Sum)
Residential Garbage & Recycling Service Fee (RGR)	$2,750 (Lump Sum)

Francisco & Associates Current Billing Rate for Francisco & Associates, Inc.

Principal Engineer/Project Manager	$160.00/hour
Project Engineer	$140.00/hour
Associate Engineer	$120.00/hour
Senior Project Analyst	$120.00/hour
Project Analyst	$100.00/hour
GIS Analyst	$100.00/hour
Clerical	$65.00/hour

Optional Tasks:

Notices and Ballots	T & M (Hourly Rates Above)

Reimbursables would be billed at cost plus 15%. Reimbursable costs include County Assessor data and maps, mileage, etc. Estimated not to exceed $1,000. Mileage would be billed at $0.56/mile.

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EXHIBIT C

INDEMNIFICATION

A. Consultant shall, to the extent permitted by law, including without limitation California Civil Code 2782 and 2782.8, indemnify, hold harmless and assume the defense of, in any actions at law or in equity, the City, its employees, agents, volunteers, and elective and appointive boards, from all claims, losses, and damages, including property damage, personal injury, death, and liability of every kind, nature and description, arising out of, pertaining to or related to the negligence, recklessness or willful misconduct of Consultant or any person directly or indirectly employed by, or acting as agent for, Consultant, during and after completion of Consultant's work under this Agreement.

B. With respect to those claims arising from a professional error or omission, Consultant shall defend, indemnify and hold harmless the City (including its elected officials, officers, employees, and volunteers) from all claims, losses, and damages arising from the professionally negligent acts, errors or omissions of Consultant, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.

C. Consultant's obligation under this section does not extend to that portion of a claim caused in whole or in part by the sole negligence or willful misconduct of the City.

D. Consultant shall also indemnify, defend and hold harmless the City from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant's services under this Agreement, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.

DUBLIN
CALIFORNIA

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Ordinance Levying Special Taxes Within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)
Prepared by: Jay Baksa, Finance Director

EXECUTIVE SUMMARY:

The City Council will consider waiving the second reading and adopting the Ordinance levying a special tax within City of Dublin Community Facilities District (CFD) No. 2024-1 (Dublin Centre). On November 19, 2024, the City Council took actions to form the Dublin Centre CFD, which included introducing an Ordinance to levy special taxes within Dublin Centre and set the date of December 3, 2024 for the second reading.

STAFF RECOMMENDATION:

Waive the second reading and adopt the **Ordinance** Levying Special Taxes Within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).

FINANCIAL IMPACT:

Approval of the recommended action has no financial impact on the City. All costs associated with the formation of the proposed Community Facilities District are borne entirely by the developer. The proposed Community Facilities District will be self-sustaining, including annual compensation to the City for its management.

DESCRIPTION:

Background
The City Council approved the Development Agreement for the Dublin Centre property on November 22, 2022. The Development Agreement specified in Section 6.2 that the City would use its best efforts to commence proceedings to form a Community Facilities District (CFD) to finance certain public facilities and services. The Development Agreement specified that the effective tax rate shall not exceed 1.75% or the term of the bonds shall not exceed 35 years.

The first step in the CFD formation process took place on October 15, 2024, with the City Council's consideration and adoption of two resolutions of intention, which set the public hearing and special landowner election for November 19, 2024. The approval of the resolutions included a cap on the effective tax rate of 1.75% for each tax zone and the provision that impact fees would not be included as reimbursable costs from any future bond proceeds. These changes were incorporated into the resolutions heard at the November 19, 2024 public hearing.

Additionally, the City Council's approval was based on the understanding that the developer would include transparency items on their website and disclose CFD information at the time of sale. Staff will continue to work with the developer to ensure these requirements are met.

On November 19, 2024, the City Council took the following actions forming the City of Dublin CFD No. 2024-1 (Dublin Centre):

1. Adopted the Resolution Forming the City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).
2. Adopted the Resolution Determining Necessity to Incur Bonded Indebtedness for the City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).
3. Adopted the Resolution Calling Special Election for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).

The approval of these resolutions included an adjustment to the total effective Tax Rates as shown in Table 1.

Table 1: Effective Tax Rate by Tax Zone

	Tax Zone #6 3 Story Option	Tax Zone #5 ADU Option	Tax Zone #4 2 Story Option	Tax Zone #3 Shophouses	Tax Zone #2 ROW Townhomes	Tax Zone #1 Entry Level Townhomes
Proposed Tax Rate	1.75%	1.74%	1.75%	1.75%	1.75%	1.69%
Approved Tax Rate	1.73%	1.73%	1.73%	1.60%	1.73%	1.50%
Difference	-0.02%	-0.01%	-0.02%	-0.15%	-0.02%	-0.19%

Additionally, the City conducted the Special Election and based on the affirmative results of the votes taken by the landowner, the City Council took the following actions:

1. Adopted the Resolution Declaring Results of Special Election and Directing Recording of Notice of Special Tax Lien for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).
2. Introduced and waived the first reading of the Ordinance Levying Special Taxes within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre).

Lastly, the date for the second reading of the Ordinance was set for December 3, 2024. Following tonight's approval of the Ordinance, the effective date of the Special Tax Ordinance will be 30 days after adoption, which is anticipated to be January 3, 2025.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Ordinance Levying Special Taxes within City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)

ORDINANCE NO. XX – 24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUBLIN

LEVYING SPECIAL TAXES WITHIN CITY OF DUBLIN COMMUNITY FACILITIES DISTRICT NO. 2024-1 (DUBLIN CENTRE)

WHEREAS, on October 15, 2024, this City Council (the "City Council") of the City of Dublin (the "City"), adopted a resolution stating its intention to establish its City of Dublin Community Facilities District No. 2024-1 (Dublin Centre) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et. seq.*, of the California Government Code (the "Act"), to finance public services and the acquisition and construction of certain facilities; and

WHEREAS, notice was published as required by the Act relative to the intention of this City Council to form the CFD, to provide for financing certain services and certain facilities and to incur bonded indebtedness for the CFD in an amount not to exceed $55,000,000, excluding bonds described in Section 53364.2(e) of the Act; and

WHEREAS, this City Council has held noticed public hearings as required by the Act relative to (i) the determination to proceed with the formation of the CFD, and the rate and method of apportionment of the special taxes to be levied within the CFD to finance a portion of the costs of the services and the facilities and (ii) the issuance of not to exceed $55,000,000 of bonded indebtedness for the CFD, excluding bonds described in Section 53364.2(e) of the Act; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the CFD, and the levy of said special taxes within the CFD were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held; and

WHEREAS, subsequent to the hearing, this City Council adopted resolutions entitled "Forming City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)" (the "Resolution of Formation"), "Determining Necessity to Incur Bonded Indebtedness for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)" (the "Resolution of Necessity") and "Calling Special Election for City of Dublin Community Facilities District No. 2024-1 (Dublin Centre)," which resolutions defined the public services (the "Services") and public facilities to be financed by the CFD (the "Facilities"), established the CFD, authorized the levy of the special taxes with the CFD, determined the necessity to incur bonded indebtedness in the CFD and called an election within the CFD on the propositions of incurring indebtedness, levying a special tax, and establishing an appropriations limit within the CFD, respectively; and

WHEREAS, on November 19, 2024, a special election was held within the CFD at which the eligible landowner-electors approved such propositions by the two-thirds vote required by the Act.

NOW, THEREFORE, the City Council of the City of Dublin does ordain as follows:

SECTION 1. LEVY OF SPECIAL TAX

By the passage of this Ordinance, the City Council hereby authorizes and levies special taxes within the CFD pursuant to the Act, at the rate and in accordance with the formula (the "Rate and Method") set forth in the Resolution of Formation, which Resolution of Formation is by this reference incorporated herein, as the same may be amended in accordance with the Act. The special taxes are hereby levied commencing in fiscal year 2024-25 and in each fiscal year thereafter until payment in full of the Services and any bonds issued by the City for the CFD (the "Bonds") or such longer period provided in the Rate and Method, as contemplated by the Resolution of Formation and the Resolution of Necessity, as the same may be amended in accordance with the Act, and all costs of administering the CFD.

SECTION 2. ANNUAL CALCULATION OF LEVY

The Finance Director of the City is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, in the manner and as provided by the Rate and Method.

SECTION 3. EXEMPTIONS; MAXIMUM LEVY OF SPECIAL TAXES

Except as set forth in the Rate and Method, properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within the CFD in excess of the maximum tax specified in the Rate and Method.

SECTION 4. AUTHORIZED USES OF SPECIAL TAXES

All of the collections of the special taxes shall be used as provided for in the Act and the Rate and Method, including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the Services and the Facilities, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the special tax.

SECTION 5. COLLECTION OF SPECIAL TAXES

The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad

valorem taxes; provided, however, that this City Council may provide for other appropriate methods of collection by resolution of this City Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent payments of the special taxes. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Alameda in order to effect proper billing and collection of the special tax, so that the special taxes shall be included on the secured property tax roll of the County of Alameda for fiscal year 2024-25 and for each fiscal year thereafter until the payment in full of the Services and any Bonds or such longer period of time provided in the Rate and Method.

SECTION 6. SEVERABILITY

If for any reason any portion of this Ordinance is found to be invalid, or if the special taxes are found inapplicable to any particular parcel within the CFD by a court of competent jurisdiction, the balance of this Ordinance and the application of the special taxes to the remaining parcels within the CFD shall not be affected.

SECTION 7. POSTING OF ORDINANCE

The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be posted in at least three public places in the City of Dublin in accordance with Section 36933 of the Government Code of the State of California.

SECTION 8. EFFECTIVE DATE

This Ordinance shall take effect 30 days from the date of final passage.

PASSED, APPROVED, AND ADOPTED this 3rd day of December, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

Agenda Item 5.6

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Amendment to the Signing Authority of the Local Housing Trust Fund Grant for the Regional Street Senior Affordable Housing and Amador Station Affordable Housing Projects
Prepared by: Jason Earl, Senior Management Analyst

EXECUTIVE SUMMARY:

The City Council will consider resolutions authorizing the City Manager to receive and act as the trustee/manager for up to $3,333,333 in grant funds from the California Department of Housing and Community Development (HCD) for both the Regional Street Senior Affordable Housing project and the Amador Station Affordable Housing project. HCD has requested the City adopt new resolutions with a general designation of authority to the City Manager in order to access the award.

STAFF RECOMMENDATION:

Adopt the **Resolution** Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Regional Street Senior Affordable Housing Project, and the **Resolution** Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Amador Station Project.

FINANCIAL IMPACT:

None.

DESCRIPTION:

In 2020 and 2022, the City Council approved a Resolution authorizing Linda Smith, as the City Manager, to submit applications and receive $3,333,333 in Local Housing Trust Fund (LHTF) grants from the California Department of Housing and Community Development (HCD) for both the Regional Street Senior Affordable Housing project and the Amador Station Affordable Housing project (Resolution 77-20 and Resolution 47-22). HCD awarded the grant funds to the City for each project (Contract number 20-LHTFCOM-15786 and Contract number 22-LHTFCOM-17512).

The purpose of the LHTF Program is to provide matching funds to local and regional housing trust funds dedicated to the creation, rehabilitation, or preservation of affordable housing, transitional housing and emergency shelters.

The City Council Resolutions authorizing both grant applications utilized template language provided by HCD. This language expressly gave Linda Smith, City Manager at that time, the authority to receive funds and act as the Trustee/Manager for the Local Housing Trust Fund Program awards for the Regional Street Senior Affordable Housing and the Amador Station affordable housing projects. Due to the transition to a new City Manager, HCD is requiring the City to re-adopt resolutions with a general designation of authority to the "City Manager or their designee" to act in that capacity. HCD has advised this change is required to access the grant funds.

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 D: Support development of housing types to support essential workers, younger buyers, and seniors.

ENVIRONMENTAL DETERMINATION:

The Resolutions Authorizing the City Manager to Receive and act as the Trustee/Manager for Local Housing Trust Fund Program Funds for the Regional Street Senior Affordable Housing project and for the Amador Station project are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 as these resolutions do not meet CEQA's definition of a "project" and would not result in either a direct physical change, or a reasonably foreseeable indirect physical change in the environment.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Resolution Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Regional Street Senior Affordable Housing Project
2) Resolution Authorizing Application for, and Receipt of Local Housing Trust Fund Program Funds for the Amador Station Project

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

AUTHORIZING APPLICATION FOR, AND RECEIPT OF LOCAL HOUSING TRUST FUND PROGRAM FUNDS FOR THE REGIONAL STREET SENIOR AFFORDABLE HOUSING PROJECT

WHEREAS, a necessary quorum and majority of the Council members of the City of Dublin ("Applicant") hereby consents to, adopts and ratifies this resolution; and

WHEREAS, the State of California (the "State") Department of Housing and Community Development ("Department") is authorized to provide up to $57 million under the Local Housing Trust Fund ("LHTF") Program from the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1) (as described in Health and Safety Code section 50842.2 et seq. (Chapter 365, Statutes of 2017 (SB 3)) ("Program"); and

WHEREAS, the Department issued a Notice of Funding Availability ("NOFA") dated April 30, 2020, under the LHTF Program; and

WHEREAS, the City of Dublin is an eligible Local Housing Trust Fund applying to the Program to administer one or more eligible activities using Program Funds; and

WHEREAS, the Department may approve funding allocations for the LHTF Program, subject to the terms and conditions of Health and Safety Code Section 50842.2, the LHTF Program Guidelines, NOFA, Program requirements, the Standard Agreement and other related contracts between the Department and LHTF award recipients.

NOW, THEREFORE, BE IT RESOLVED, the Dublin City Council confirms that**:**

SECTION 1. The City Manager or her/his designee is authorized to execute the LHTF Program Application, the LHTF Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Program or the LHTF Award to Applicant, as the Department may deem appropriate; and

SECTION 2. If the City of Dublin receives an award of LHTF funds from the Department pursuant to the above referenced LHTF NOFA, it represents and certifies that it will use all such funds on Eligible Projects in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including, without limitation, all rules and laws regarding the LHTF Program, as well as any and all contracts Applicant may have with the Department ("Eligible Project"); and

SECTION 3. The City of Dublin, with its "Inclusionary Zoning In Lieu Fees Fund," established by Ordinance No. 8-02 in May 2002, and revised by Ordinance No. 2-24 in June 2024 and published in Dublin Municipal Code Chapter 8.68 (also known as the "Affordable Housing Fund"), as an eligible LHTF, is hereby authorized to act as the trustee in connection with the Department's funds to Eligible Projects pursuant to the above-described NOFA in an amount not to exceed $5,000,000 (the "LHTF Award"); and

SECTION 4. Applicant hereby agrees to match on a dollar for dollar basis the LHTF Award pursuant to Guidelines Section 104. Applicant hereby agrees to utilize matching finds on a dollar-

for-dollar basis for the same Eligible Project for which Program Funds are used, as required by HSC Section 50843.5(c) *(A summary of the City's commitment on the Eligible Project is included as Attachment 1);* and

SECTION 5. Pursuant to Attachment 1 and the Applicant's certification in this resolution, the LHTF funds will be expended only for Eligible Projects and consistent with all program requirements and Applicant shall be subject to the terms and conditions as specified in the Standard Agreement, H&S Section 50842.2 and LHTF Program Guidelines.

PASSED, APPROVED, AND ADOPTED by the Dublin City Council on this 3rd day of December, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

CERTIFICATE OF THE ATTESTING OFFICER

The undersigned does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of the Dublin City Council which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

ATTEST:

_____
City Clerk

ATTACHMENTS:
1. Summary of City of Dublin Commitment of Funding

Attachment 1:

Summary of City of Dublin Commitment for Use of the Local Housing Trust Fund Program Funds and Matching Funds

The City of Dublin's Local Housing Trust Fund (LHTF) match of land and funding and the proposed LHTF grant will be used for a project proposed by Eden Housing, Inc. for approximately 113 affordable rental units on a 1.3-acre site located at 6541 Regional Street. This project is being accepted by the City for LHTF funding contingent upon project financing and necessary entitlements. Excluding a manager's unit, 100 percent of the proposed 113 units are committed to be affordable to households earning no more than 60 percent of area median income (AMI). Twenty-two of the proposed 113 units (19 percent) and at least 30 percent of the Program Funds are committed to be used for households earning no more than 30 percent of AMI. None of the LHTF Program funding is proposed to be expended on assistance to moderate-income households.

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

AUTHORIZING APPLICATION FOR, AND RECEIPT OF LOCAL HOUSING TRUST FUND PROGRAM FUNDS FOR THE AMADOR STATION PROJECT

WHEREAS, a necessary quorum and majority of the Council members of the City of Dublin ("Applicant") hereby consents to, adopts and ratifies this resolution; and

WHEREAS, the State of California (the "State") Department of Housing and Community Development ("Department") is authorized to provide up to $57 million under the Local Housing Trust Fund ("LHTF") Program from the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1) (as described in Health and Safety Code section 50842.2 et seq. (Chapter 365, Statutes of 2017 (SB 3)) ("Program"); and

WHEREAS, the Department issued a Notice of Funding Availability ("NOFA") dated April 5, 2022, under the LHTF Program; and

WHEREAS, the Applicant is an eligible Local Housing Trust Fund applying to the Program to administer one or more eligible activities using Program Funds; and

WHEREAS, the Department may approve funding allocations for the LHTF Program, subject to the terms and conditions of Health and Safety Code Section 50842.2, the LHTF Program Guidelines, NOFA, Program requirements, the Standard Agreement and other related contracts between the Department and LHTF award recipients.

NOW, THEREFORE, BE IT RESOLVED, the Dublin City Council confirms that**:**

SECTION 1. If the Applicant receives an award of LHTF funds from the Department pursuant to the above referenced LHTF NOFA, it represents and certifies that it will use all such funds on Eligible Projects in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including, without limitation, all rules and laws regarding the LHTF Program, as well as any and all contracts the Applicant may have with the Department ("Eligible Project").

SECTION 2. The City of Dublin is hereby authorized to act as the trustee/manager in connection with the Department's funds to Eligible Projects pursuant to the above-described NOFA in an amount not to exceed $3,333,333 (the "LHTF Award").

SECTION 3. Applicant hereby agrees to match on a dollar-for-dollar basis the LHTF Award pursuant to Guidelines Section 104. Applicant hereby agrees to utilize matching finds on a dollar-for-dollar basis for the same Eligible Project for which Program Funds are used, as required by HSC Section 50843.5(c).

SECTION 4. Pursuant to Attachment 1 and the Applicant's certification in this Resolution, the LHTF funds will be expended only for Eligible Projects and consistent with all program requirements.

SECTION 5. Nonprofit Housing Trust Funds and Native American Tribe Housing Trust Funds agree to use Program Funds only for Eligible Projects located in cities and counties that

submitted an adopted Housing Element that was found by the Department to be in compliance and that have submitted their Housing Element Annual Progress Report (APR) for the current year or prior year by the application due date.

SECTION 6. Applicant shall be subject to the terms and conditions as specified in the Standard Agreement, H&S Section 50842.2 and LHTF Program Guidelines.

SECTION 7. The City Manager or her/his designee is authorized to execute the LHTF Program Application, the LHTF Standard Agreement and any subsequent amendments or modifications thereto, as well as any other documents which are related to the Program or the LHTF Award to Applicant, as the Department may deem appropriate.

PASSED, APPROVED, AND ADOPTED by the Dublin City Council on this 3rd day of December, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

CERTIFICATE OF THE ATTESTING OFFICER

The undersigned, City Clerk of the City of Dublin does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of the Dublin City Council, which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

ATTEST:

_____
City Clerk

ATTACHMENTS:
1. Summary of City of Dublin Commitment of Funding

Attachment 1:

Summary of City of Dublin Commitment for Use of the Local Housing Trust Fund Program Funds and Matching Funds

The City of Dublin's Local Housing Trust Fund (LHTF) match and 100 percent of the requested LHTF Program funds will be used for a project proposed by The Related Companies of California, LLC., for 164 affordable rental units on an approximately 1.3-acre site located at 6501 Golden Gate Drive. The Dublin City Council has appropriated $7.1 million from the City's Affordable Housing Funds and committed $2.9 million in Alameda County Measure A-1 Bond funds to the project contingent upon project financing. In addition, the project has received its necessary entitlements. Excluding two manager's units, 100 percent of the project would be affordable to households earning an average of no more than 60 percent of area median income (AMI). The Related Companies of California, LLC., has committed that a minimum of 41 units in the project would be set aside for homeless persons upon receiving Section 8 funding for these units. This housing would serve persons at risk of becoming homeless, and persons with special needs.

DUBLIN
CALIFORNIA

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Amendment to the Affordable Housing Assistance Agreement for the Regional Street Senior Affordable Housing Project (PLPA-2021-00035)
Prepared by: Jason Earl, Senior Management Analyst

EXECUTIVE SUMMARY:

The City Council will consider approving an amendment to the terms of the Affordable Housing Assistance Agreement for Eden Housing's Regional Street Senior Affordable Housing Project. The proposed amendment would reduce the interest rate on the Local Housing Trust Fund loan from 3% to 1%. This loan is funded by a grant the City received from the California Department of Housing and Community Development. The loan will help fund construction of the 113 unit very-low- and low-income affordable housing project located at 6541-6543 Regional Street.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Terms of the Affordable Housing Assistance Agreement Between the City of Dublin and Corona/Ely Ranch, Inc.

FINANCIAL IMPACT:

The recommended action will result in the City charging a 1% interest rate over the life of the loan versus 3% which the City typically charges on Affordable Housing Assistance Agreements. The reduction in the interest rate of the loan will result in a decrease in interest revenue received at the end of the 55-year repayment term of the loan.

DESCRIPTION:

Background
Eden Housing proposes to develop a 1.33-acre site located at the corner of Regional Street and St. Patrick Way at 6541-6543 Regional Street as shown in Figure 1. The property is bound by commercial uses to the south, the 499-unit Avalon West project to the east, St. Patrick Way and commercial uses to the north, and Regional Street and commercial uses to the west. The project will include 113 units affordable lower income households.

Figure 1. Location Map



The City Council approved an Affordable Housing Assistance Agreement (Attachment 2) between the City of Dublin and Eden Housing's controlled affiliate, Corona/Ely Ranch, Inc., on June 20, 2023 (Resolution 68-23). This agreement included the dedication of the 1.33-acre project site valued at approximately $5 million, an allocation of $5 million from the Alameda County Measure A-1 Bond funds allocated to Dublin, a $1 million predevelopment loan from the City's Affordable Housing Fund, and a $3,333,333 construction/permanent loan from the City of Dublin that is funded by a Local Housing Trust Fund (LHTF) grant the City received from the California Department of Housing and Community Development (HCD) for this project.

The City issued the $1 million predevelopment loan to Eden Housing in June of 2024. The loan has a 3% simple interest rate which began accruing interest at the time of loan issuance. This loan will be paid off when Eden receives their construction financing in early 2025.

Eden Housing has secured all of the necessary construction/permanent financing for the project to move forward. As is typical of affordable housing projects, Eden is obtaining financing from a variety of sources including a Tax Credit Allocation Committee (TCAC) lender, HCD No Place Like Home and Multi-Family Housing programs, Alameda County Measure A-1 Bond Fund, and the City of Dublin through the LHTF grant. However, the project is projected to be in a negative cash flow position in year 11 of operation without an interest rate reduction from HCD. The interest rate reduction will ensure the project's tax credit investor will participate and that the project is financially feasible. HCD will only consider granting an interest rate reduction if Eden Housing first seeks a similar reduction from the City of Dublin and other public lenders. Therefore, Eden Housing is requesting the City Council consider reducing the interest rate from 3% to 1% on the

City's $3.3 million loan.

Analysis

The $3,333,333 loan from the City of Dublin is funded by a grant the City received from HCD. HCD set the maximum interest rate the City can charge at 3%, but the City has the discretion to charge a lower interest rate. Lowering the interest rate will have minimal impact to the City since this is passthrough money from HCD. The City of Dublin must provide Eden Housing with a decision and rationale for that decision to address the requirement HCD placed on Eden to seek rate reductions from their other public lenders.

ENVIRONMENTAL REVIEW:

This amendment to the terms of the Affordable Housing Assistance Agreement between the City of Dublin and Corona/Ely Ranch, Inc. is not subject to the requirements of the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15378 as it does not meet CEQA's definition of a project and will not result in direct or indirect physical changes in the environment.

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 D: Support development of housing types to support essential workers, younger buyers, and seniors.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

1) Resolution Approving an Amendment to the Terms of the Affordable Housing Assistance Agreement Between the City of Dublin and Corona/Ely Ranch, Inc.
2) Affordable Housing Assistance Agreement between the City of Dublin and Corona/Ely Ranch, Inc.

RESOLUTION NO. XX – 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUBLIN

APPROVING AN AMENDMENT TO THE TERMS OF THE AFFORDABLE HOUSING ASSISTANCE AGREEMENT BETWEEN THE CITY OF DUBLIN AND CORONA/ELY RANCH, INC.

WHEREAS, Corona/Ely Ranch, Inc. and the City of Dublin entered into an Affordable Housing Assistance Agreement dated June 20, 2023, through which the City agreed to provide a $3,333,333 Local Housing Trust Fund ("LHTF") loan ("City Construction/Permanent Loan") for the Regional Street Senior Affordable Housing project ("Development"), to be funded by the LHTF grant program from the California Department of Housing and Community Development ("HCD"), and to be repaid from the residual receipts of the project with a simple interest rate of 3% annually; and

WHEREAS, pursuant to the Affordable Housing Assistance Agreement, Corona/Ely Ranch, Inc. will execute a Secured Promissory Note ("City Construction/Permanent Loan Promissory Note") promising to repay the City Construction/Permanent Loan, and a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing ("City Construction/Permanent Loan Deed of Trust") securing the City Construction/Permanent Loan Promissory Note; and

WHEREAS, Eden Housing requested an amendment to the terms of the Affordable Housing Assistance Agreement, and all related documents, to reduce the interest rate on the City Construction/Permanent LHTF loan from 3% to 1% to ensure the financial feasibility of the Development.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Dublin hereby directs staff to amend the terms of the Affordable Housing Assistance Agreement, and all related documents between the City of Dublin and Corona/Ely Ranch, Inc., to reduce the City Construction/Permanent LHTF loan interest rate to a simple interest rate of 1% annually.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute amendments to the Affordable Housing Assistance Agreement and all related documents such to carry out the intent of this Resolution.

{Signatures on the following page}

PASSED, APPROVED AND ADOPTED this 3rd day of December 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Mayor

ATTEST:

_____
City Clerk

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AFFORDABLE HOUSING ASSISTANCE AGREEMENT

by and between

THE CITY OF DUBLIN

and

CORONA/ELY RANCH, INC.

(Regional Street Apartments)

DocuSign Envelope ID: 5B660918-2B75-4DB1-B911-9E63A3B91720

AFFORDABLE HOUSING ASSISTANCE AGREEMENT
(Regional Street Apartments)

THIS AFFORDABLE HOUSING ASSISTANCE AGREEMENT (this "**Agreement**") is entered into effective as of June 20, 2023 ("**Effective Date**") by and between the CITY OF DUBLIN, a California municipal corporation ("**City**"), and CORONA/ELY RANCH, INC., a California nonprofit public benefit corporation ("**Developer**"). City and Developer are hereinafter collectively referred to as the "**Parties**."

RECITALS

A. Developer is the owner of approximately 1.33 acres of previously developed real property located at 6541- 6543 Regional Street in the City of Dublin, California (the "Property").

B. City and Developer have entered into a Community Benefit Program Agreement dated December 7, 2021, as amended June 7, 2023, with respect to the proposed development of a multifamily rental housing development on the Property for seniors and/or persons with special needs, with not less than one hundred thirteen (113) apartment units (the "Development"). The Community Benefit Program Agreement provides for Developer to construct the Development and to restrict the rental of all of the apartment units in the Development to lower income persons at an affordable rent. The Community Benefit Program Agreement further provides for the City to grant the Development one hundred thirteen (113) Residential Allocations from the Downtown Dublin Specific Plan.

C. In addition, City and Developer have entered into an Option Agreement dated March 16, 2021, pursuant to which the City was given an option to purchase the Property under certain limited circumstances set forth in Section 2(b) thereof, including that the City and Developer have not timely entered into a mutually acceptable Affordable Housing Assistance Agreement ("AHAA") as described in Section 2(b)(i) thereof. The Parties intend that this Agreement shall satisfy the condition set forth in Section 2(b)(i) of the Option Agreement that the City and Developer timely enter into a mutually acceptable AHAA. This Agreement is not intended to satisfy, modify or terminate the other two conditions to the exercise of the option as set forth in Section 2(b)(ii) and Section 2(b)(iii) of the Option Agreement.

D. In order to financially assist the Development, City and Developer desire for City to provide to Developer (a) a low-interest loan of One Million Dollars ($1,000,000) from the City's Affordable Housing Fund to be used for predevelopment expenses (the "City Predevelopment Loan"), and (b) a low-interest construction and permanent loan of Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($3,333,333) from the Local Housing Trust Funds received by the City from the State of California to be used for construction expenses (the "City Construction/Permanent Loan"), pursuant to the terms and conditions set forth in this Agreement.

E. 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,

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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

1.1. 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 3.12, in the form attached hereto as Exhibit H.

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

(d) "**City Construction/Permanent Loan**" means the loan from the City to the Developer in the amount of Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($3,333,333), evidenced by the City Construction/Permanent Loan Promissory Note.

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

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

(g) "**City Deeds of Trust**" shall mean the City Predevelopment Loan Deed of Trust and City Construction/Permanent Loan Deed of Trust.

(h) "**City Documents**" means, collectively, this Agreement, the City Predevelopment Loan Promissory Note, the City Predevelopment Loan Deed of Trust, the City Construction/Permanent Loan Promissory Note, the City Construction/Permanent Loan 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.

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(i) "**City Loans**" shall mean the City Predevelopment Loan and City Construction/Permanent Loan.

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

(k) "**City Predevelopment Loan**" means the loan from the City to the Developer in the amount of One Million Dollars ($1,000,000), evidenced by the City Predevelopment Loan Promissory Note.

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

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

(n) "**City Promissory Notes**" shall mean the City Predevelopment Loan Promissory Note and the City Construction/Permanent Loan Promissory Note.

(o) "**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 I and incorporated herein.

(p) "**Conditions of Approval**" has the meaning set forth in Section 3.1.

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

(r) "**Construction Plans**" has the meaning set forth in Section 3.8.

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

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

(u) "**Developer**" means Corona/Ely Ranch, Inc., a California nonprofit public benefit corporation, and its permitted successors and assigns as set forth herein.

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

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

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

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

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

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(aa) "**Improvements**" means: (i) one hundred thirteen (113) apartment units, including one (1) unrestricted 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 H.

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

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

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

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

(ff) "**Permanent Loan Conversion**" means the closing of the Developer's permanent financing for the Development.

(gg) "**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.

(hh) "**Prevailing Wage Law**" has the meaning set forth in Section 3.14.

(ii) "**Property**" means the real property to be acquired and developed by the Developer pursuant to this Agreement, which real property is more particularly described in the Legal Description attached hereto as Exhibit A which is incorporated herein.

(a) "**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

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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.

(jj) "**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.

(kk) "**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 G.

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

(mm) "**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.

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

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

(pp) "**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.

(a) Authority. Developer is a nonprofit corporation 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.

(b) 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.

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(c) 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.

(d) 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.

(a) 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.

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

(c) 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.

(d) 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 be effective as of the Effective Date.

ARTICLE III
DEVELOPMENT OF THE PROJECT

3.1. 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 H (subject to the last sentence of this Section 3.1), 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

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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.

3.2. 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.

3.3. 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.

3.4. 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 G, 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.

3.5. 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.

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3.6. 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.

3.7. 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 supervision and 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 to the 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.

3.8. Construction Plans. Developer shall submit to City detailed construction plans for the Development (the "**Construction Plans**") for City's approval, which approval shall not be unreasonably withheld or delayed. 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.

3.9. 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.

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3.10. 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 the City for its written approval, which approval shall not be unreasonably withheld or delayed if the Construction 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 propose 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 One Hundred Fifty Thousand Dollars ($150,000) or any set of changes in the work the costs of which cumulatively exceeds Five Hundred Thousand Dollars ($500,000) or more.

3.11. Defects in Plans. City shall not be responsible to Developer or to any third party for 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.

3.12. 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 J, 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.

3.13. 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, reproductive health decisionmaking, medical condition, genetic

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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.

3.14. 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

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any of the insurance policies described in this Agreement. The provisions of this Section 3.14 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 3.14 shall not apply to any Claim which arises as a result of an Indemnitee's gross negligence or willful misconduct.

3.15. 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.

3.16. Liens and Stop Notices. Until the expiration of the term of the City Regulatory Agreement and full repayment of the City Loans, 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.

3.17. 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 3.16 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 Predevelopment Loan. The City shall provide a loan to Developer from the City's Affordable Housing Fund in the amount of One Million Dollars ($1,000,000) (the "**City Predevelopment Loan**"), upon the terms and conditions and for the purposes set forth in this Agreement. The City Predevelopment Loan shall be evidenced by a promissory note (the "**City**

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Predevelopment Loan Promissory Note") substantially in the form attached hereto as Exhibit C, and shall be secured by a deed of trust (the "**City Predevelopment Loan Deed of Trust**") executed by Developer as Trustor substantially in the form attached hereto as Exhibit D and recorded against the Property concurrently with the effective date of the Promissory Note, 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 Predevelopment Loan set forth in Section 4.6, the proceeds of the City Predevelopment Loan ("**City Predevelopment Loan Proceeds**") shall be disbursed promptly thereafter to fund predevelopment costs of the Development, in accordance with the Loan Budget included in the Preliminary Financing Plan. City Predevelopment Loan Proceeds shall not be used or disbursed for developer fee, overhead or profit.

4.2. City Construction/Permanent Loan. The City shall provide a loan to Developer from the Local Housing Trust Fund grant received by City from the State of California, in the amount of Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($3,333,333) (the "**City Construction/Permanent Loan**"), upon the terms and conditions and for the purposes set forth in this Agreement. The City Construction/Permanent Loan shall be evidenced by a promissory note (the "**City Construction/Permanent Loan Promissory Note**") substantially in the form attached hereto as Exhibit E, and shall be secured by a deed of trust (the "**City Construction/Permanent Loan Deed of Trust**") executed by Developer as Trustor substantially in the form attached hereto as Exhibit F and recorded against the Property concurrently with the effective date of the City Construction/Permanent Loan Promissory Note, 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 Construction/Permanent Loan set forth in Section 4.7, the proceeds of the City Construction/Permanent Loan ("**City Construction/Permanent Loan Proceeds**") shall be disbursed promptly thereafter to fund costs of the Development, in accordance with the Loan Budget included in the Preliminary Financing Plan. City Construction/Permanent Loan Proceeds shall not be used or disbursed for developer fee, overhead or profit.

4.3. Security. As security for repayment of the City Predevelopment Loan Promissory Note, Developer shall execute the City Predevelopment Loan Deed of Trust, pursuant to which City shall be provided a lien against the Property and the Improvements. The City Predevelopment Loan Deed of Trust shall be recorded in the Official Records concurrently with the effective date of the Promissory Note. The City Predevelopment Loan Deed of Trust shall be in first lien priority and shall not be subordinate to any other financing.

As security for repayment of the City Construction/Permanent Loan Promissory Note, Developer shall execute the City Construction/Permanent Loan Deed of Trust, pursuant to which City shall be provided a lien against the Property and the Improvements. The City Construction/Permanent Loan Deed of Trust shall be recorded in the Official Records concurrently with the effective date of the City Construction/Permanent Loan Promissory Note. The City

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Construction/Permanent Loan Deed of Trust shall be subordinate to such loans that are shown as senior in the Revised Financing Plan approved by the City.

4.4. Title Policies. 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 Predevelopment Loan, showing Developer as holding fee title to the Property and insuring the City Predevelopment Loan Deed of Trust to be a valid lien on the Property subject only to exceptions approved by City (the "**City Predevelopment Loan Title Policy**"), together with such endorsements as are required by the City. 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 Construction/Permanent Loan, showing Developer as holding fee title to the Property and insuring the City Construction/Permanent Loan Deed of Trust to be a valid lien on the Property subject only to exceptions approved by City (the "**City Construction/Permanent Loan 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 Predevelopment Loan Proceeds, Developer shall submit quarterly 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 Predevelopment Loan Proceeds are disbursed and shall continue to provide the City a Revised Financing Plan on a quarterly 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

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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 City Predevelopment Loan. City's obligation to fund the City Predevelopment Loan for the purposes of Section 4.1 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 has acquired fee title to the Property or will acquire fee title concurrently with the disbursement of the City Predevelopment Loan proceeds.

(c) Developer's delivery to the City of evidence of insurance coverage pertaining to property insurance and 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.

(d) Developer's delivery of the City Predevelopment Loan Promissory Note, City Predevelopment Loan Deed of Trust and City Regulatory Agreement, each fully executed and acknowledged as applicable.

(e) Recordation of the City Regulatory Agreement and the City Predevelopment Loan Deed of Trust in the Official Records simultaneously with the disbursement of the first City Predevelopment Loan Proceeds.

(f) 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.

(g) 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.

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

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

4.7. Conditions to Disbursement of City Construction/Permanent Loan.

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City's obligation to fund the City Construction/Permanent 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 the City of evidence of all insurance coverage required in accordance with the requirements set forth in Section 10.2.

(b) Developer's delivery of the City Construction/Permanent Loan Promissory Note and City Construction/Permanent Loan Deed of Trust, each fully executed and acknowledged as applicable.

(c) Recordation of the City Construction/Permanent Loan Deed of Trust in the Official Records simultaneously with the Construction Loan Closing.

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

(e) 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.

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

(g) The proposed use of the funds is in accordance with the City Loans Budget in the Revised Financing Plan.

4.8. Repayment of the City Predevelopment Loan. Developer shall pay all outstanding principal and accrued interest on the City Predevelopment 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 Predevelopment Loan indebtedness to become immediately due and payable, and (ii) the Construction Loan Closing.

4.9. Repayment of the City Construction/Permanent 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, the County of Alameda, and 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

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Receipts, in proportion to the amount of City Construction/Permanent 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 Construction/Permanent 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 Construction/Permanent Loan indebtedness to become immediately due and payable, and (ii) the expiration of the term of the City Construction/Permanent Promissory Note.

4.10. Prepayment; Acceleration

(a) Prepayment. Developer shall have the right to prepay the City Loans 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 Predevelopment Loan Promissory Note and City Construction/Permanent Loan 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.

4.11. Nonrecourse. Except as expressly provided in this Section 4.11, 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 Notes, and the sole recourse of City with respect to the payment of the principal of, and interest thereon shall be to the Property and the Improvements and any other collateral held by City as security for the City Promissory Notes; 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 Notes 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 Notes 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 Notes.

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 Notes; 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 Deeds 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 Deeds of Trust; and/or the misappropriation of

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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 one hundred twelve (112) of the one hundred thirteen (113) residential units developed within the Development shall be occupied by and rented at an affordable rent to households of Extremely Low Income and Lower Income (as defined in the Regulatory Agreement) in accordance with the terms hereof and the City Regulatory Agreement, and one unit may be reserved for property managers with no income restrictions. The Parties shall execute the City Regulatory Agreement, substantially in the form attached hereto as Exhibit I, concurrently with the effective date of the City Promissory Note and City Deed of Trust. 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

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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
LIMITATIONS ON CHANGE IN OWNERSHIP, MANAGEMENT AND CONTROL OF DEVELOPER

6.1. Change Pursuant to this Agreement. Developer has represented that it possesses the necessary expertise, skill and ability to carry out the development and operation of the Development on the Property pursuant to this Agreement. The qualifications, experience, financial capacity and expertise of Developer is of particular concern to the City. It is because of these qualifications, experience, financial capacity and expertise that the City has entered into this Agreement with Developer. No voluntary or involuntary successor, assignee or transferee of Developer shall acquire any rights or powers under this Agreement, except as expressly provided herein.

6.2. Prohibition on 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. Notwithstanding the foregoing, Developer is permitted to assign this Agreement and the City Documents to a Controlled Affiliate, as defined in Section 6.3 below. 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

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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.

6.3. 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 Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; and (v) a Transfer to an entity which is under the direct control or under common control with Eden Housing, Inc. or in which Eden Housing, Inc. or one of its affiliates, is the general partner or sole member of the general partner ("**Controlled Affiliate**").

The City hereby approves the initial Transfer, if any, of the limited partnership interest in Developer to an investor limited partner (the "**Investor**") and approves future Transfers of the limited partner interest in Developer provided that: (i) such Transfers do not affect the timing and amount of the limited partner capital contributions provided for in the Partnership Agreement of Developer approved by the City; and (ii) in subsequent Transfers, the initial limited partner or an affiliate of the initial limited partner retains a membership or partnership interest and the general partner of the Investor or a wholly-owned affiliate thereof serves as a managing member or managing general partner of the successor limited partner.

In the event the general partner of Developer is removed by the Investor for cause following default under the Partnership Agreement, the City hereby approves the Transfer of the general partner interest to a nonprofit corporation that is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (the "**Code**"), or a limited liability company whose sole member is a nonprofit corporation exempt from federal income taxation pursuant to Section 501(c)(3) of the Code, selected by the Investor and approved by the City in writing, which approval shall not be withheld unreasonably.

6.4. 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 6.4 shall not apply to permitted Transfers described in Section 6.3):

(i) The proposed transferee demonstrates to the City's satisfaction that it has the 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.

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(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.

6.5. Effect of Transfer without City Consent.

6.5.1 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.

6.5.2 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 6.5.2 shall not apply to Transfers permitted under Section 6.3.

6.6. 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 6.6 shall not apply to Transfers permitted under Section 6.3.

ARTICLE VII
SECURITY FINANCING AND RIGHTS OF MORTGAGEES

7.1. Mortgages and Deeds of Trust for Development. Mortgages and deeds of trust, or any 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

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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.

7.2. 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.

7.3. 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, 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.

7.4. 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.

7.5. 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.

7.6. 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.

7.7. Estoppel Certificates. Any Party shall, at any time, and from time to time, within thirty (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.

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ARTICLE VIII
ENVIRONMENTAL MATTERS

8.1. 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 of in 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.

8.2. 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 8.1. 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 8.2 shall not apply to acts described in clause (i) above caused by the gross negligence or willful misconduct of an Indemnitee.

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8.2.1 No Limitation. Developer hereby acknowledges and agrees that Developer's duties, obligations and liabilities under this Agreement, including, without limitation, under Section 8.2 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.

8.3. 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.

8.4. 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 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

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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 IX
DEFAULTS, REMEDIES AND TERMINATION

9.1. 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 3.4, 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 accelerate re payment of such loan;

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(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 Loans 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 executed upon 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 9.1 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

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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.

9.2. 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.

9.3. 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.

9.4. 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.

9.5. Developer's Remedies Upon an Event of City Default. Upon the occurrence of an 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.

9.6. 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

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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.

9.7. 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 X
INDEMNITY AND INSURANCE

10.1. 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 connection with 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 10.1 shall not extend to Claims resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 10.1 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 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.

10.2. 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 K and incorporated herein.

(b) Prior to closing of each of the City Loans, 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.

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ARTICLE XI
MISCELLANEOUS PROVISIONS

11.1. 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.

11.2. 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 the Parties 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.

11.3. 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 delivery if delivery is confirmed by the delivery service;

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

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Attention: City Manager
(with copy to City Attorney)

Developer: Corona/Ely Ranch, Inc.
22645 Grand Street
Hayward, California 94541
Attention: Chief Executive Officer

The City agrees that it shall provide Developer's Investor 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 for its failure to do so. The Investor 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.

11.4. 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.

11.5. Waivers; Modification. No waiver of any breach of any covenant or provision of this 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.

11.6. 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.

11.7. 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.

11.8. 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,

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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.

11.9. Entire Agreement. This Agreement, including the exhibits listed below, which are attached 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 Predevelopment Loan Promissory Note
Exhibit D	City Predevelopment Loan Deed of Trust
Exhibit E	City Construction/Permanent Loan Promissory Note
Exhibit F	City Construction/Permanent Loan Deed of Trust
Exhibit G	Schedule of Performance
Exhibit H	Scope of Development
Exhibit I	City Regulatory Agreement
Exhibit J	Certificate of Completion
Exhibit K	City Insurance Requirements

11.10. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature 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.

11.11. 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.

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

11.13. 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.

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

11.15. 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.

11.16. 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]

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

DEVELOPER:

CORONA/ELY RANCH, INC., a California nonprofit public benefit corporation

By: Andrea Osgood

CITY:

CITY OF DUBLIN, a California corporation

By: DocuSigned by: E33836CFFC044E0...
Linda Smith, City Manager

ATTEST:

By: DocuSigned by: 9BB70815D22F40A...
Marsha Moore, City Clerk

APPROVED AS TO FORM:

By: DocuSigned by: 21204750D69C449...
City Attorney

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the County of Alameda, City of Dublin, State of California, and is described as follows:

Parcel One:

Parcel 2 of Parcel Map No. 1920, filed December 1, 1976 in Book 94 of Parcel Maps, Pages 11 and 12, Alameda County Records.

Excepting therefrom:
That portion of land conveyed to the City of Dublin by Grant Deed Dated March 15, 2021, Recorded 03-26-21, as Instrument No. 2021123184, more particularly described as follows:
Real property, situate in the incorporated territory of the City of Dublin, County of Alameda, State of California, described as follows:
Being a portion of Parcel 2, as said Parcel 2 is shown and so designated on Parcel Map 1920, filed for record on December 1, 1976 in Book 94 of Parcel Maps, at Page 11, in the Office of the County Recorder of Alameda County, more particularly described as follows:
Beginning at the Northwestern corner of said Parcel 2;
Thence from said point of beginning, along the Northerly line of said Parcel 2, North 69° 08’ 15” East 31.11 feet;
Thence leaving said Northerly line, along the arc of a non-tangent 40.00 foot radius curve to the left, from which the center of said curve bears South 33° 42’ 04 East, through a central angle of 77° 09’ 41” an arc distance of 53.87 feet, to the Westerly line of said Parcel 2;
Thence along said Westerly line, North 20° 51’ 45” West 39.00 feet to said point of beginning.

Parcel Two:

An Access Easement, not to be exclusive, together with the right of ingress and egress therefor, in, over, along and across that certain land situated in the Township of Pleasanton, County of Alameda, State of California, described as follows:

Beginning at the most Western corner of the parcel of land described in the Deed from Amfac Merchandising Corporation, a California corporation to Baydale, Inc., a Delaware corporation, recorded December 28, 1971, Reel 3026, Image 888, Recorder's Series No. 71-169856, Alameda County Records; thence through a portion of the last named parcel of land and along the Northwestern boundary line thereof, North 69° 08' 15" East, 329.29 feet; thence at right angles to the last named line South 20° 51' 45" East, 71.00 feet to the Northeastern corner of the parcel of land described in the Deed from Baydale, Inc., a Delaware corporation, to Amfac Merchandising Corporation, a California corporation, recorded April 12, 1972, Reel 3104 Image 883, Recorder's Series No. 72-47311, Alameda County Records; thence along the last named line South 69° 08' 15" West 329.29 feet to the Northeastern line of Regional Street being the parcel of land described as Parcel One in the Deed from Motel Interstate Systems, Inc., to the County of Alameda, recorded March 8, 1971, Reel 2802 Image 404, Recorder's Series No.

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71-26256, Alameda County Records; thence along the last named line North 20° 51' 45" West, 71.00 feet to the point of beginning.

Assessor's Parcel No. 941-1500-025-2 (Affects this and other property)

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EXHIBIT B

PRELIMINARY FINANCING PLAN

Project Sources and Uses

The following table illustrates the initial **funding sources** of funding by stage.

	Construction Financing Stage		Permanent Financing Stage	Perm Sources by Unit
Construction Loan	$57,294,564.00			
Alameda County A1	$5,048,319.00		$5,048,319.00	$44,675.39
City Local Housing Trust Fund	$3,333,333.00		$3,333,333.00	$29,498.52
Land Donation	$8,400,000.00		$8,400,000.00	$74,336.28
Permanent Mortgage			$2,472,983.00	$21,884.81
HCD – NPLH			$9,776,465.00	$86,517.39
HCD – MHP			$18,337,732.00	$162,280.81
Deferred Developer Fee			$1,300,000.00	$11,504.42
Investor Capital Contribution	$3,238,669.00		$32,386,693.00	$286,607.90
Deferred Cost Until Conversion	$3,740,640.00			
TOTAL SOURCES	$81,055,525.00		$81,055,525.00	

The table below itemizes the preliminary total **development costs** by stage.

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	Construction Financing Stage		Permanent Financing Stage	Uses by Unit
Total Acquisition Cost	$8,505,150.00		$8,505,150.00	$75,266.81
Hard Cost	$50,788,250.00		$50,788,250.00	$449,453.53
Soft Cost	$1,800,000.00		$1,800,000.00	$15,929.20
Construction Interest and Fees	$4,248,769.00		$4,248,769.00	$37,599.72
Permanent Financing Costs	$915,747.00		$950,747.00	$8,413.69
Attorney Costs	$40,000.00		$40,000.00	$353.98
Reserves and Appraisal Cost	10,000.00		1,015,640.00	$8,987.96
Construction Contingency	$2,543,170		$2,543,170.00	$22,505.93
Other Costs	$7,521,799.00		$7,521,799.00	$66,564.59
Developer Costs	$800,000.00		$3,500,000.00	$30,973.45
Syndication Costs	$142,000.00		$142,000.00	$1,256.64
Cost Deferred Until Conversion	$3,740,640.00			$33,103.01 32,481.14
TOTAL DEV COSTS	$81,055,525.00		$81,055,525.00	$717,305.53

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EXHIBIT C

CITY PREDEVELOPMENT LOAN PROMISSORY NOTE

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PROMISSORY NOTE
(Regional Street Apartments)

$1,000,000 Dublin, California
_____, 202_

FOR VALUE RECEIVED, the undersigned Corona/Ely Ranch, Inc., a California nonprofit public benefit corporation ("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 One Million Dollars ($1,000,000), plus interest thereon pursuant to Section 2 below (the "City Predevelopment Loan").

1. Borrower's Obligation. This promissory note (the "Note") evidences Borrower's obligation to pay Holder the principal amount of One Million Dollars ($1,000,000) with interest for the funds loaned to Borrower by Holder pursuant to the Affordable Housing Assistance Agreement between Borrower and Holder dated _____, 2023 (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 Predevelopment Loan bears interest from the date of this Note at three percent (3%) interest, until full repayment of the outstanding balance of the City Predevelopment Loan.

3. Term and Repayment Requirements. All outstanding principal and interest under this Note shall be paid in full on the earliest to occur of (i) a Developer Event of Default under the Loan Agreement for which the Holder exercises its right to cause the City Predevelopment Loan to become immediately due and payable, and (ii) the Construction Loan Closing (as those terms are defined in the Loan Agreement).

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

5. Prepayment. Borrower may prepay the City Predevelopment 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 6.3 of the Loan Agreement. Holder may assign its interest in the Note to any person or entity in Holder's sole discretion.

7. Security. 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. This Note is nonrecourse to Borrower and the general and limited partners of the Borrower, and the sole recourse of Holder

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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 ten (10) days opportunity to cure;

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(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 9.1 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 11.3 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.

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(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 Predevelopment Loan. It may not be modified except upon written consent of the parties.

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

Corona/Ely Ranch, Inc.,
a California nonprofit
public benefit corporation

By: _____
Name:

5365400.3

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EXHIBIT D

CITY PREDEVELOPMENT LOAN DEED OF TRUST

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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 (Regional Street Apartments)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is made as of _____, 202__, by and among Corona/Ely Ranch, Inc., a California nonprofit public benefit corporation ("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 Assistance Agreement between Trustor and Beneficiary, dated _____, 2023. The Loan Agreement requires Beneficiary to make a predevelopment loan to Trustor in the amount of One Million Dollars ($1,000,000).

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 One Million Dollars ($1,000,000), 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.

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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.

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

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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.

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

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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 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

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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 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 that required under the Loan Documents 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.

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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

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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

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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

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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 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

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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

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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

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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

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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.

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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 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: Corona/Ely Ranch, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Chief Executive Officer

City: City of Dublin
37101 Dublin Blvd.
Dublin, CA 94560
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

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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

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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]

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

TRUSTOR:

CORONA/ELY RANCH, INC.,
a California nonprofit public benefit corporation

By: _____

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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

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the County of Alameda, City of Dublin, State of California, and is described as follows:

Parcel One:

Parcel 2 of Parcel Map No. 1920, filed December 1, 1976 in Book 94 of Parcel Maps, Pages 11 and 12, Alameda County Records.

Excepting therefrom:
That portion of land conveyed to the City of Dublin by Grant Deed Dated March 15, 2021, Recorded 03-26-21, as Instrument No. 2021123184, more particularly described as follows:
Real property, situate in the incorporated territory of the City of Dublin, County of Alameda, State of California, described as follows:
Being a portion of Parcel 2, as said Parcel 2 is shown and so designated on Parcel Map 1920, filed for record on December 1, 1976 in Book 94 of Parcel Maps, at Page 11, in the Office of the County Recorder of Alameda County, more particularly described as follows:
Beginning at the Northwestern corner of said Parcel 2;
Thence from said point of beginning, along the Northerly line of said Parcel 2, North 69° 08’ 15” East 31.11 feet;
Thence leaving said Northerly line, along the arc of a non-tangent 40.00 foot radius curve to the left, from which the center of said curve bears South 33° 42’ 04 East, through a central angle of 77° 09’ 41” an arc distance of 53.87 feet, to the Westerly line of said Parcel 2;
Thence along said Westerly line, North 20° 51’ 45” West 39.00 feet to said point of beginning.

Parcel Two:

An Access Easement, not to be exclusive, together with the right of ingress and egress therefor, in, over, along and across that certain land situated in the Township of Pleasanton, County of Alameda, State of California, described as follows:

Beginning at the most Western corner of the parcel of land described in the Deed from Amfac Merchandising Corporation, a California corporation to Baydale, Inc., a Delaware corporation, recorded December 28, 1971, Reel 3026, Image 888, Recorder's Series No. 71-169856, Alameda County Records; thence through a portion of the last named parcel of land and along the Northwestern boundary line thereof, North 69° 08' 15" East, 329.29 feet; thence at right angles to the last named line South 20° 51' 45" East, 71.00 feet to the Northeastern corner of the parcel of land described in the Deed from Baydale, Inc., a Delaware corporation, to Amfac Merchandising Corporation, a California corporation, recorded April 12, 1972, Reel 3104 Image 883, Recorder's Series No. 72-47311, Alameda County Records; thence along the last named line South 69° 08' 15" West 329.29 feet to the Northeastern line of Regional Street being the parcel of land described as Parcel One in the Deed from Motel Interstate Systems, Inc., to the County of Alameda, recorded March 8, 1971, Reel 2802 Image 404, Recorder's Series No.

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71-26256, Alameda County Records; thence along the last named line North 20° 51' 45" West, 71.00 feet to the point of beginning.

Assessor's Parcel No. 941-1500-025-2 (Affects this and other property)

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EXHIBIT E

CITY CONSTRUCTION/PERMANENT LOAN PROMISSORY NOTE

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PROMISSORY NOTE
(Regional Street Apartments)

$3,333,333 Dublin, California
_____, 202_

FOR VALUE RECEIVED, the undersigned _____ ("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 Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($3,333,333), plus interest thereon pursuant to Section 2 below (the "City Construction/Permanent Loan").

1. Borrower's Obligation. This promissory note (the "Note") evidences Borrower's obligation to pay Holder the principal amount of the City Construction/Permanent Loan loaned to Borrower by Holder pursuant to the Affordable Housing Assistance Agreement between Borrower and Corona/Ely Ranch, Inc. dated _____, 2023 (the "AHAA"). All capitalized terms not otherwise defined in this Note shall have the meanings set forth in the AHAA.

2. Interest. The City Construction/Permanent Loan bears interest from the date of this Note at three percent (3%) interest, until full repayment of the outstanding balance of the City Construction/Permanent Loan.

3. Term and Repayment Requirements. Principal and interest under this Note in the amount of the City Pro rata Percentage of Fifty Percent (50%) of the Residual Receipts is due and payable as set forth in Section 4.9 of the AHAA. The unpaid principal balance hereunder, together with accrued interest thereon, is due and payable no later than the date that is the fifty-fifth (55^{th}) 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").

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

5. Prepayment. Borrower may prepay the City Construction/Permanent 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 6.3 of the AHAA. Holder may assign its interest in the Note to any person or entity in Holder's sole discretion.

7. Security. 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

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are hereby incorporated into this Note and made a part hereof. This Note is 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 ten (10) days opportunity to cure;

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(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 9.1 of the AHAA; and

(iii) The occurrence of any Borrower event of default under the AHAA, the City Construction/Permanent Loan 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 AHAA or the City Construction/Permanent Loan 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 11.3 of the AHAA.

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.

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(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 AHAA, 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 Construction/Permanent Loan. It may not be modified except upon written consent of the parties.

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

By: _____
Name:

5379382.1

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EXHIBIT F

CITY CONSTRUCTION/PERMANENT LOAN DEED OF TRUST

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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 (Regional Street Apartments)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is made as of _____, 202__, by and among _____ ("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 Assistance Agreement between Trustor and Beneficiary, dated _____, 2023.

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 Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($3,333,333), 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 that required under the Loan Documents 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

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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.

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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

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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.

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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

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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

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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

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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: _____.
22645 Grand Street
Hayward, CA 94541
Attention: Chief Executive Officer

City: City of Dublin
37101 Dublin Blvd.
Dublin, CA 94560
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

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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

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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]

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

TRUSTOR:

By: _____

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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

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

The land referred to is situated in the County of Alameda, City of Dublin, State of California, and is described as follows:

Parcel One:

Parcel 2 of Parcel Map No. 1920, filed December 1, 1976 in Book 94 of Parcel Maps, Pages 11 and 12, Alameda County Records.

Excepting therefrom:
That portion of land conveyed to the City of Dublin by Grant Deed Dated March 15, 2021, Recorded 03-26-21, as Instrument No. 2021123184, more particularly described as follows:
Real property, situate in the incorporated territory of the City of Dublin, County of Alameda, State of California, described as follows:
Being a portion of Parcel 2, as said Parcel 2 is shown and so designated on Parcel Map 1920, filed for record on December 1, 1976 in Book 94 of Parcel Maps, at Page 11, in the Office of the County Recorder of Alameda County, more particularly described as follows:
Beginning at the Northwestern corner of said Parcel 2;
Thence from said point of beginning, along the Northerly line of said Parcel 2, North 69° 08’ 15” East 31.11 feet;
Thence leaving said Northerly line, along the arc of a non-tangent 40.00 foot radius curve to the left, from which the center of said curve bears South 33° 42’ 04 East, through a central angle of 77° 09’ 41” an arc distance of 53.87 feet, to the Westerly line of said Parcel 2;
Thence along said Westerly line, North 20° 51’ 45” West 39.00 feet to said point of beginning.

Parcel Two:

An Access Easement, not to be exclusive, together with the right of ingress and egress therefor, in, over, along and across that certain land situated in the Township of Pleasanton, County of Alameda, State of California, described as follows:

Beginning at the most Western corner of the parcel of land described in the Deed from Amfac Merchandising Corporation, a California corporation to Baydale, Inc., a Delaware corporation, recorded December 28, 1971, Reel 3026, Image 888, Recorder's Series No. 71-169856, Alameda County Records; thence through a portion of the last named parcel of land and along the Northwestern boundary line thereof, North 69° 08' 15" East, 329.29 feet; thence at right angles to the last named line South 20° 51' 45" East, 71.00 feet to the Northeastern corner of the parcel of land described in the Deed from Baydale, Inc., a Delaware corporation, to Amfac Merchandising Corporation, a California corporation, recorded April 12, 1972, Reel 3104 Image 883, Recorder's Series No. 72-47311, Alameda County Records; thence along the last named line South 69° 08' 15" West 329.29 feet to the Northeastern line of Regional Street being the parcel of land described as Parcel One in the Deed from Motel Interstate Systems, Inc., to the County of Alameda, recorded March 8, 1971, Reel 2802 Image 404, Recorder's Series No.

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71-26256, Alameda County Records; thence along the last named line North 20° 51' 45" West, 71.00 feet to the point of beginning.

Assessor's Parcel No. 941-1500-025-2 (Affects this and other property)

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EXHIBIT G

SCHEDULE OF PERFORMANCE

Performance Milestones	**Milestone Completion Date**
Developer satisfaction of Conditions Precedent to Disbursement of City Predevelopment Loan.	Not later than June 30, 2025
Application to HCD Multifamily Housing Program	Not later than July 31, 2023
Application to Tax Credit Allocation Committee	Not later than August 31, 2024
Close of escrow for Construction Financing	Not later than June 30, 2025
Commencement of construction and development work on Development	Within 30 days after Construction Loan Closing, and not later than: July 31, 2025
Completion of construction and development work on Development	Not later than December 31, 2027
Commencement of occupancy of apartment units	Not later than December 31, 2027
Full occupancy of apartment units	Not later than June 30, 2028

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EXHIBIT H

SCOPE OF DEVELOPMENT

The project site is located within the Downtown Dublin Specific Plan (amended on July 21, 2020). The site is conveniently located within walking distance to retail, amenities, and major transit stops including the BART West Dublin / Pleasanton Station. Consistent with the goals of the Specific Plan, Eden Housing is proposing to develop Regional Street to support 113 units of critically needed affordable housing that will serve low and extremely low-Income seniors (age 62+) in the City of Dublin. The project was developed consistent with the guiding principles for the Transit-Oriented District. No additional CEQA approval was required.

Eden's 113-unit senior community at 6543 Regional Street will include 55 studios, 57 one-bedrooms, and one unrestricted two-bedroom manager's unit. The studios and one-bedroom units will be restricted to senior households earning between 20 to 50 percent of Alameda County Area Median Income, as adjusted for family size. Eden currently owns and operates 4 properties in the City of Dublin, 3 of which are senior properties, including Valor Crossing, which is located within walking distance of the Regional Street site. Regional Street is anticipated to include open terraces on each residential floor, a community garden, and a pet relief area. Ground floor units facing St. Patrick's Way will include outdoor patios and create visual connections to the street for residents. Each floor will also contain outdoor terraces for a distinctly residential feel for all residents to utilize. Other on-site amenities will include a laundry room and a community room with a kitchen. The building is designed to have a community room and lobby on the ground floor.

Regional Street residents in a PSH unit will also receive service and support on behalf of the Alameda County Health Care Services Agency for services including access to mental health, substance treatments, and medical services, as well as assists with applying for SSI and other benefits. This site is also conveniently located next to various public transportation options including BART West Dublin/Pleasanton Station.

The project has secured financing through Alameda County's A1 program and the state's Local Housing Trust Fund. Development staff applied for HCD No Place Like Home ("NPLH") funds in 2022. If awarded, thirty-four units will be set aside as permanent supportive housing ("PSH") for chronically homeless seniors with severe mental illnesses. Development staff will apply for 4% credits and tax-exempt bonds.

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EXHIBIT I

REGULATORY AGREEMENT

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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: 941-1500-025

Space above this line for Recorder's use.

AFFORDABLE HOUSING REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (this "**Agreement**") is dated as of _____, 2023, by and between the City of Dublin, a municipal corporation ("**City**") and Corona/Ely Ranch, Inc., a California nonprofit public benefit corporation ("**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. Owner has acquired certain property located at 6541-6543 Regional Street in the City of Dublin, California, more particularly described as Exhibit A (the "**Property**").

B. City and Owner have entered into a Community Benefit Program Agreement dated December 7, 2021, as amended June 7, 2023, with respect to the proposed development of a multifamily rental housing development on the Property for seniors and/or persons with special needs, with not less than one hundred thirteen (113) apartment units (the "**Development**"). The Community Benefit Program Agreement provides for Owner to construct the Development and to restrict the rental of all of the apartment units in the Development to lower income persons at an affordable rent. The Community Benefit Program Agreement further provides for the City to grant the Development one hundred thirteen (113) Residential Allocations from the Downtown Dublin Specific Plan.

C. The Owner intends to develop, construct, own, and operate the Development on the Property consisting of approximately one hundred thirteen (113) housing units primarily for Extremely Low and Low Income Households and related improvements. The Development will include a manager's unit that will not be subject to affordability restrictions.

D. The City and the Owner have entered into an Affordable Housing Assistance Agreement (the "**Loan Agreement**") pursuant to which the City make a predevelopment loan to

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Owner in the amount of One Million Dollars ($1,000,000), and a construction/permanent loan to Owner to Owner in the amount of Three Million Three Hundred Thirty-Three Thousand Three Hundred Thirty-Three Dollars ($3,333,333) (the "**City Loans**"). The City Loans will be used for certain predevelopment and construction expenses of the Development and will make the Development more competitive for the other affordable housing funding sources.

E. 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, except as provided under Section 2.3(d) hereof.

"**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.

"**Affordable Rent**" means that the maximum rents as specified in Section 2.3 hereof.

"**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, except as provided under Section 2.3(d) hereof. 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**" means the household size "adjusted for family size appropriate to the unit" in accordance with California Health and Safety Code Section 50053, except as provided under Section 2.3(d) hereof. The definition is utilized to calculate Affordable Rent and is not intended to be a limit on the number of persons occupying a unit.

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"**City**" shall mean the City of Dublin, a California municipal corporation.

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

"**Completion Date**" means the date a final certificate of occupancy is issued by the City to certify that the construction of the Development is complete and the Development may be legally occupied.

"**Development**" shall mean the Property and the one hundred thirteen (113) units to be developed on the Property, and any additional improvements and all landscaping, roads and parking spaces existing thereon, as the same may from time to time exist

"**Eligible Household**" means a household (i) 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, and (ii) which consists of one or more Qualifying Residents, Qualified Permanent Residents, and/or Permitted Health Care Residents pursuant to California Civil Code Section 51.3.

"**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, except as provided under Section 2.3(d) hereof.

"**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, except as provided under Section 2.3(d) hereof.

"**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.

"**Fifteen Year Compliance Period**" means the fifteen (15) year compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986, as amended.

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

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

"**Investor Limited Partner**" means the limited partner or partners of the Owner.

"**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, except as provided under Section 2.3(d) hereof.

"**Low Income Rent**" means the rent allowed to be charged on the Low Income Units pursuant to Section 2.1(a) below, except as provided under Section 2.3(d) hereof.

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"**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.

"**Owner**" shall mean Corona/Ely Ranch, Inc., a California nonprofit public benefit corporation, and its successors and assigns to the Development.

"**Property**" shall mean the real property described in Exhibit A attached hereto and incorporated herein.

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

"**Rent**" means the total of monthly payments by the residents of a Unit (other than the manager's Unit) for the following: (1) use and occupancy of the 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. Utility allowances may be determined by use of the utility allowance published by the local public housing authority or the California Utility Allowance Calculator ("**CUAC**") model allowed by the California Tax Credit Allocation Committee regulations, if the Property qualifies.

"**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.

"**Senior Household**" shall mean a household consisting of Senior Citizens, Qualified Permanent Residents and/or Permitted Health Care Residents as defined in Civil Code Section 51.3(b).

"**Tenant**" shall mean an Eligible Household occupying a Unit.

"**Term**" means the term of this Regulatory Agreement, which commences as of the date of this Regulatory Agreement and shall remain in effect until the fifty-fifth (55th) anniversary of the Completion Date.

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 which qualifies as a Senior Citizen Housing Development pursuant to California Civil Code Section 51.3, 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

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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 the Term of fifty-five (55) years commencing upon the Completion Date, 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) Seventy-Eight (78) of the Restricted Units shall be rented to and occupied by or, if vacant, available for occupancy by Low Income Households; and

(b) Thirty-Four (34) of the Restricted Units shall be rented to and occupied by, or if vacant, available for occupancy by Extremely Low Income Households.

(c) One (1) Unit shall be reserved for an on-site manager and shall not be subject to affordability or occupancy restrictions

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 [Intentionally Deleted]

2.3 Rents for Restricted Units.

(a) Low Income Rent. Subject to Section 2.3(d) 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 2.3(d) 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) 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 Units shall be given at least thirty (30) days written notice prior to any increase in the Rent.

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(d) Compliance with TCAC Requirements. In the event the Development receives a reservation of low income housing tax credits by the California Tax Credit Allocation Committee ("**TCAC**"), Owner may use the occupancy standards, assumed household sizes, income limits, rent levels and rent increases that are permitted by TCAC in place of such requirements imposed by this Agreement. During the term of any TCAC regulatory agreement recorded with respect to the Development (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. Notwithstanding the foregoing, however, Owner shall comply with the requirements of City Municipal Code Section 8.68 with respect to occupancy standards, assumed household sizes, income limits, rent levels and rent increases for the required number of inclusionary housing units as provided in that section.

(e) Loss of Rental Subsidies. In the event that the Development receives Project-Based Section 8 or other rental subsidy payments (collectively referred to as the "**Rental Subsidies**") as a source of financing in accordance with the Revised Financing Plan approved by City in accordance with the Loan Agreement, and during the Term any change in federal law occurs or any action (or inaction) by Congress or any federal or State agency, which results in a reduction, termination or nonrenewal of the Rental Subsidies through no fault of the Owner ("**Federal or State Action**"), such that the Rental Subsidy projected on the approved Revised Financing Plan is no longer available, the City shall allow the Developer to increase the rents on one or more of the Extremely Low Income Units to Low Income Rents only if and to the extent that the Developer has demonstrated to the satisfaction of the City Manager that such a rent increase is necessary to maintain the financial stability of the Development. The Developer shall provide the City Manager with a projected operating budget for the Development showing the impact of the loss or reduction of the Rental Subsidy as well as the last two full years of audited financial statements for the Development showing actual costs and expenses of operating the Development at the time Developer requests an increase in the rents. The City Manager shall have authority to approve an increase in the rents on a sufficient number of Extremely Low Income Units to a rent not exceeding the Low Income Rent in order to ensure that the Development generates sufficient income to cover its operating costs and debt service as shown on the submitted operating budget, provided, however, any such rent increase shall only be allowed pursuant to a transition plan mutually agreed upon by the City and Developer consistent with TCAC regulations and only to the extent not otherwise prohibited under the TCAC Regulatory Agreement or any other regulatory agreement recorded on the Development. Developer shall make all commercially reasonable efforts to obtain alternative sources of rental subsidies and shall provide the City with annual progress reports on efforts to obtain alternative sources of rental subsidies that would allow the rents on the Extremely Low Income Units to be reduced to the Extremely Low Income Rents. Upon receipt of any alternative Rental Subsidies, the Developer shall reduce the rents on the units subject to the rent increase to the Extremely Low Income Rents to the greatest extent possible.

(f) Compliance with Stricter Requirements. Notwithstanding anything to the contrary contained in this Agreement, if the other lenders, tax credit investor, or regulatory agencies require stricter household income eligibility or affordability requirements than those imposed hereby, the requirements of such other lenders, tax credit investor, or regulatory agencies shall prevail. In meeting all such income and affordability requirements, the Owner

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may count each unit at a specific income eligibility level as meeting the same specific income eligibility level requirement in each of the lender, tax credit, or regulatory agency regulatory agreements.

2.4 Increase in Tenant Income.

2.4.1 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 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.

2.4.2 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 2.4.1 or 2.4.2 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.

2.5 Selection of Tenants. Applications will be selected pursuant to an equitable selection method, and in accordance with the following preferences. 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, and are subject to compliance with applicable fair housing laws.

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In addition to the other requirements to be set forth in Management and Marketing Plan under Section 6.4 below, the Management and Marketing Plan shall include Owner's marketing, services, and other assistance and programs to fulfill the Owner's and City's intent to operate the Development for Senior Households.

This Section 2.5 is subject to the requirements of applicable fair housing laws.

2.6 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.

2.7 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.

2.8 Residential Use. The Development shall be operated only for residential use. No part of the Development shall be operated as transient housing.

2.9 Section 8 Certificate Holders. The Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor, or similar programs. The Owner shall not apply selection criteria to holders of Section 8 certificate or similar certificates or vouchers that is more burdensome than criteria applied to all other prospective tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of Units by such prospective tenants.

2.10 Lease Provisions. Owner shall include in leases for all Affordable Units provisions which authorize Owner to immediately terminate the tenancy of any household one or more of whose members has misrepresented any fact material to the household's qualification as an Extremely Low Income Household or Low Income Unit. Each lease or rental agreement shall also provide that the household is subject to annual certification in accordance with Section 3.1 below, and that, if the household's income increases above the applicable limits for an Extremely Low Income Household or Low Income Household, as applicable, such household's Rent may be subject to increase.

2.11 Notice of Expiration of Term.

2.11.1 At least six (6) months prior to the expiration of the Term, Owner shall provide by first-class mail, postage prepaid, a notice to all Tenants containing (a) the anticipated date of the expiration of the Term, (b) any anticipated increase in Rent upon the expiration of the Term, (c) a statement that a copy of such notice will be sent to City, and (d) a statement that a public hearing may be held by City on the issue and that the Tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Owner shall also file a copy of the above-described notice with City.

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2.11.2 In addition to the notice required above, Owner shall comply with the requirements set forth in California Government Code Sections 65863.10 and 65863.11. Such notice requirements include: (i) a three (3) year notice to existing tenants, prospective tenants and Affected Public Agencies (as defined in California Government Code Section 65863.10(a)) prior to the expiration of the Term, (ii) a twelve (12) month notice to existing tenants, prospective tenants and Affected Public Agencies prior to the expiration of the Term, (iii) a six (6) month notice requirement to existing tenants, prospective tenants and Affected Public Agencies prior to the expiration of the Term; (iv) a notice of an offer to purchase the Development to "qualified entities" (as defined in California Government Code Section 65863.11(d)), if the Development is to be sold within five (5) years of the end of the Term; and (v) a notice of right of first refusal within the one hundred eighty (180) day period that qualified entities may purchase the Development.

2.12 Non-Discrimination; Compliance with Fair Housing Laws.

2.12.1 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.

2.12.2 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, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin 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

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(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.

3.3 Entry and Inspection. 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.

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

3.5 Records.

(a) Owner shall keep and maintain at the principal place of business of the Owner set forth in Section 6.10 below, or elsewhere with the City's written consent, full, complete and appropriate books, records and accounts relating to the Development. Owner shall cause all books, records and accounts relating to the Development to be kept and maintained in accordance with generally accepted accounting principles consistently applied, and to be consistent with requirements of this Regulatory Agreement. Owner shall cause all books, records, and accounts to be open to and available for inspection and copying by the City, its auditors or other authorized representatives at reasonable intervals during normal business hours. Owner shall cause copies of all tax returns and other reports that Owner may be required to furnish to any government agency to be open for inspection by the City at all reasonable times at

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the place that the books, records and accounts of Owner are kept. Owner shall preserve such records for a period of not less than five (5) years after their creation. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Development is pending at the end of the record retention period stated herein, then Owner shall retain the records until such action and all related issues are resolved. Such records are to include but are not limited to:

(1) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;

(2) Financial records; and

(3) Records demonstrating compliance with the marketing, tenant selection, affordability, and income requirements.

(b) The City shall notify Owner of any records it deems insufficient. Owner has fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Owner must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

4. Term of Agreement.

4.1 Term of Restrictions. This Agreement shall remain in effect through the 55th anniversary of the Completion Date, 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

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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. City hereby approves Eden Housing Management, Inc. (EHMI) as the initial management entity for the Development.

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.

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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 of Owner, 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 and targeted outreach to Senior 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. The Management and Marketing Plan shall also address Owner's plans concerning Senior Households set forth in Section 2.5 of this Agreement. 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) Description of targeted outreach to Senior Households.

(c) Plan to provide on-site programs and services for Senior Households 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 Social Services. Owner shall provide a variety of social services at the Development. Such social services are subject to the prior written approval of the City, in its reasonable discretion. Owner shall use its best efforts to create a comprehensive social service program that is targeted to the needs of the residents of the Development. Owner shall ensure that all personnel providing or coordinating all social services shall be adequately trained and counseled, including with respect to the appropriate means and methods of communicating and interacting with residents. Any substantive decrease in the amount of social services to be provided at the Property shall be subject to prior reasonable approval of City and approval shall not be unreasonably withheld

6.7 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.

6.8 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 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

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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.

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; (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.

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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 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.

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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;

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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.

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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
(With a copy to City Attorney)

Owner: Corona/Ely Ranch, Inc.
22645 Grand Street
Hayward, CA 94541
Attention: Project Owner

With a copy to Owner's investor limited partner at the address designated by Owner.

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

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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.

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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: _____
Linda Smith, City Manager

Attest:

_____
Marsha Moore, City Clerk

Approved as to form:

_____
John Bakker, City Attorney

DEVELOPER

Corona/Ely Ranch, Inc.,
a California nonprofit public benefit corporation

By: _____

SIGNATURES MUST BE NOTARIZED.

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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,

(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)

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Exhibit A

PROPERTY

Real property in the City of Dublin, County of Alameda, State of California, described as follows:

Parcel One:
Parcel 2 of Parcel Map No. 1920, filed December 1, 1976 in Book 94 of Parcel Maps, Pages 11 and 12, Alameda County Records.

Excepting therefrom:
That portion of land conveyed to the City of Dublin by Grant Deed Dated March 15, 2021, Recorded 03-26-21, as Instrument No. 2021123184, more particularly described as follows: Real property, situate in the incorporated territory of the City of Dublin, County of Alameda, State of California, described as follows: Being a portion of Parcel 2, as said Parcel 2 is shown and so designated on Parcel Map 1920, filed for record on December 1, 1976 in Book 94 of Parcel Maps, at Page 11, in the Office of the County Recorder of Alameda County, more particularly described as follows:
Beginning at the Northwestern corner of said Parcel 2; Thence from said point of beginning, along the Northerly line of said Parcel 2, North 69° 08’ 15” East 31.11 feet; Thence leaving said Northerly line, along the arc of a non-tangent 40.00 foot radius curve to the left, from which the center of said curve bears South 33° 42’ 04 East, through a central angle of 77° 09’ 41” an arc distance of 53.87 feet, to the Westerly line of said Parcel 2; Thence along said Westerly line, North 20° 51’ 45” West 39.00 feet to said point of beginning.

Parcel Two:
An Access Easement, not to be exclusive, together with the right of ingress and egress therefor, in, over, along and across that certain land situated in the Township of Pleasanton, County of Alameda, State of California, described as follows: Beginning at the most Western corner of the parcel of land described in the Deed from Amfac Merchandising Corporation, a California corporation to Baydale, Inc., a Delaware corporation, recorded December 28, 1971, Reel 3026, Image 888, Recorder's Series No. 71-169856, Alameda County Records; thence through a portion of the last named parcel of land and along the Northwestern boundary line thereof, North 69° 08' 15" East, 329.29 feet; thence at right angles to the last named line South 20° 51' 45" East, 71.00 feet to the Northeastern corner of the parcel of land described in the Deed from Baydale, Inc., a Delaware corporation, to Amfac Merchandising Corporation, a California corporation, recorded April 12, 1972, Reel 3104 Image 883, Recorder's Series No. 72-47311, Alameda County Records; thence along the last named line South 69° 08' 15" West 329.29 feet to the Northeastern line of Regional Street being the parcel of land described as Parcel One

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in the Deed from Motel Interstate Systems, Inc., to the County of Alameda, recorded March 8, 1971, Reel 2802 Image 404, Recorder's Series No. 71-26256, Alameda County Records; thence along the last named line North 20° 51' 45" West, 71.00 feet to the point of beginning.

Assessor's Parcel No. 941-1500-025 (Affects this and other property)

5369422.4

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EXHIBIT J

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 Corona/Ely Ranch, Inc., a California nonprofit public benefit corporation ("**Owner**"), entered into that certain Affordable Housing Assistance Agreement dated as of _____, 2023 ("**Loan Agreement**") concerning the development of a one hundred thirteen (113) 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 3.12 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.

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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 _____, 2023 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

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EXHIBIT A TO CERTIFICATE OF COMPLETION
LEGAL DESCRIPTION OF PROPERTY

PROPERTY

Real property in the City of Dublin, County of Alameda, State of California, described as follows:

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Beginning at the Northwestern corner of said Parcel 2; Thence from said point of beginning, along the Northerly line of said Parcel 2, North 69° 08’ 15” East 31.11 feet; Thence leaving said Northerly line, along the arc of a non-tangent 40.00 foot radius curve to the left, from which the center of said curve bears South 33° 42’ 04 East, through a central angle of 77° 09’ 41” an arc distance of 53.87 feet, to the Westerly line of said Parcel 2; Thence along said Westerly line, North 20° 51’ 45” West 39.00 feet to said point of beginning.

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Assessor's Parcel No. 941-1500-025 (Affects this and other property)

5369422.4

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EXHIBIT K

CITY INSURANCE REQUIREMENTS

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CITY INSURANCE REQUIREMENTS

Prior to the closing of the City Predevelopment Loan and City Construction/Permanent 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 Ten Thousand Dollars ($10,000) deductible (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) combined single limit per occurrence, with a deductible no greater than Ten Thousand Dollars ($10,000) 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:

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(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.

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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, volunteers, 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.

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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

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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 Predevelopment Loan and/or City Construction/Permanent Loan.

Agenda Item 6.1

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Assembly Bill 562 (2013) Five-Year Outcome Report on Economic Development Subsidy Provided to Bicentennial Square Partners
Prepared by: Rhonda Franklin, Management Analyst II

EXECUTIVE SUMMARY:

The City Council will hold a required public hearing to receive comments on the outcome of the first five-year period of the economic development business incentive, Sales Tax Reimbursement Program, with Bicentennial Square Partners for the retention of Graybar Electric Company.

STAFF RECOMMENDATION:

Conduct the public hearing, deliberate, and accept the report.

FINANCIAL IMPACT:

None.

DESCRIPTION:

As a result of the adoption of California Assembly Bill 562 (2013), effective January 1, 2014, Government Code 53083 requires cities or counties granting economic development subsidies of $100,000 or more to provide public notification and a hearing regarding the subsidy which includes: name of beneficiary, subsidy amounts, beginning and ending dates, a projection of the tax revenues generated and lost, and an estimate of the number of jobs that will be created.

In addition, a report and public hearing on the outcome including amounts expended or lost, jobs created, and net new revenues is required within the first five years of the subsidy as well as the requirement of an additional report and hearing at the conclusion of the subsidy if granted for 10 years or more.

The City of Dublin offers a number of economic development business incentives to encourage economic vitality, including business attraction and retention. In support of these efforts, the City

Council adopted Resolution 127-19 approving an Agreement for Reimbursement of Sales and Use Tax Revenue between the City of Dublin and Bicentennial Square Partners, to assist in retaining Graybar Electric Company in Dublin. Bicentennial Square Partners is the property owner, and Graybar is one of their tenants located at 11505 Dublin Blvd. Graybar is a wholesale distribution business for electrical, communications, and data networking products. They have consistently been among the City's top 25 sales tax revenue generators.

The Agreement allows for a reimbursement of up to $800,000, or 50% of the increase in sales and use tax revenue generated by Graybar above a specified base revenue amount, whichever is lower, over a 10-year period. Under the Revenue and Taxation Code, sales tax data must remain confidential; therefore, specific amounts cannot be disclosed. The reimbursements provided to the property owner are used to help offset the costs associated with certain improvements requested by Graybar as part of their business retention in Dublin.

Five years have passed since the adoption of the Agreement, and in compliance with California Government Code Section 53083, Staff has prepared and made publicly available the "Outcome Report on Economic Development Subsidy Provided by the City of Dublin to Bicentennial Square Partners." This report states the outcome of the impact of the first five years of the subsidy including amounts expended or lost, jobs created, and net new revenues received.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

A Public Hearing Notice was published in the *East Bay Times* and posted at several locations throughout the City. A copy of this Staff Report was provided to the parties to the Agreement. The outcome report was made available to the public via the City's website at www.dublin.ca.gov/1552.

ATTACHMENTS:

1) 2024 Outcome Report on Economic Development Subsidy Provided to Bicentennial Square Partners

CITY OF DUBLIN
2024 OUTCOME REPORT ON ECONOMIC DEVELOPMENT SUBSIDY
PROVIDED TO BICENTENNIAL SQUARE PARTNERS

The purpose of this report is to provide the information required by California Government Code Section 53083 in regards to an economic development subsidy provided by the City pursuant to an Agreement by and between the City of Dublin and Bicentennial Square Partners.

Within the first five years of the term of the economic development subsidy, the City of Dublin must provide all of the following information in written form and available to the public and through the City's website and hold a public hearing to consider any written or oral comments on the information contained in the report. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy on or before December 31, 2030.

The public hearing to consider any comments on the information contained in this report will be held at the following time and place:

Dublin City Council Meeting
Tuesday, December 3, 2024, at 7:00 p.m.
Council Chamber, 100 Civic Plaza, Dublin CA 94568

At the conclusion of the economic development subsidy, the City of Dublin is obligated to provide another report and hold another public hearing.

2024 OUTCOME REPORT ON ECONOMIC DEVELOPMENT SUBSIDY
PROVIDED TO BICENTENNIAL SQUARE PARTNERS

Statement of the public purposes for the economic development subsidy:

The public purposes for the economic development subsidy are to:

- continue to expand and enhance economic opportunities for businesses in the City
- continue to expand the City's employment base, and
- continue to generate hereinafter defined Sales Tax that the City can utilize to fund general governmental services such as police, fire, street maintenance, and parks and recreations programs.

1. The name and address of all corporations or any other business entities, except for sole proprietorships that are beneficiary of the economic development subsidy:

The City continues to provide financial assistance in the form of an economic development subsidy to Bicentennial Square Partners (property owner) as described in the Agreement for Reimbursement of Sales and Use Tax Revenue with Bicentennial Square Partners (Agreement).

Bicentennial Square Partners
15671 Stanton Road
Grass Valley, CA 95949

Graybar Electric Company Inc.
34 N. Meramec Ave., St. Louis, MO 63105
Doing business at 11505 Dublin Blvd., Dublin, CA 94568

2. The start and end dates (term) for the economic subsidy:

The start and end of the economic subsidy is as follows:
Effective December 3, 2019, and ending approximately December 31, 2030.

3. A description of the economic development subsidy, including the estimated total amount of the expenditure of public funds by, or of revenue lost to, the local agency as a result of the economic development subsidy:

Over the 10-year term, the City estimates to reimburse Bicentennial Square Partners up to Eight Hundred Thousand dollars ($800,000), or fifty percent (50%) of the increase between sales and use tax revenue received by the City generated by Tenant compared to a base revenue amount set by the City, whichever is less.

4. The net tax revenue accruing to the local agency as a result of the economic development subsidy:

The City has received the expected annual tax revenue of at least $100,000 of sales tax each year as estimated in the Agreement.

Note: Revenue and Taxation Code Section 7056 requires that sales tax data be kept confidential since that information would reveal the business affairs or operations of a business. Thus, it is unlawful for the City to disclose specific amounts of tax revenue received from a single business or property.

5. The number of jobs created by the economic development subsidy, broken down by full-time, part-time, and temporary positions:

The Agreement has retained 89 full-time positions and created 3 temporary positions.

Assembly Bill 562 (2013) Five-Year Outcome Report on Economic Development Subsidies

December 3, 2024



DUBLIN
CALIFORNIA

Assembly Bill 562 (2013) Background

- AB 562 (2013) requires cities and counties granting economic development subsidies of $100,000 or more to provide public hearing reports on:
  - The initial consideration of the subsidy (12/3/2019).
  - Five-year outcome of the subsidy (12/3/2024).
  - Outcome at the conclusion of the subsidy (est. 2030).

Subsidy Background

- On December 3, 2019, City Council approved an Agreement for Reimbursement of Sales and Use Tax Revenue between the City of Dublin and Bicentennial Square Partners to assist in retaining Graybar Electric Company in Dublin.
- Graybar has consistently been among the City's top 25 sales tax revenue generators and is a Fortune 500 company.

Subsidy Background, 2

- The Agreement allows for a reimbursement of up to $800,000 or 50% of the increase in sales use tax revenue generated by Graybar.
- Sales tax data must remain confidential.
- Five years have passed since the approval of the Agreement.
- Outcome Report on Economic Development Subsidy.

Five-Year Outcome Report

- City has received the expected annual tax revenue of at least $100,000 as anticipated.
- 89 full-time jobs have been retained.

Conclusion

- The next report is due at the conclusion of the Agreement term, by December 2030 if not sooner.

- Questions?

DUBLIN
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STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Informational Report on Accessory Dwelling Units
Prepared by: Gaspare Annibale, Senior Planner

EXECUTIVE SUMMARY:

The City Council will receive an informational report on accessory dwelling units, including use of the City's permit-ready prototype plans, impact and building permit fee waivers, and production.

STAFF RECOMMENDATION:

Receive the report.

FINANCIAL IMPACT:

None.

DESCRIPTION:

Over the past several years, changes in State law have made it easier for homeowners to build accessory dwelling units (ADUs). In addition to ensuring that the City's Zoning Ordinance is consistent with State law, the City has taken further steps to encourage the creation of ADUs. Below is a summary of those efforts.

Accessory Dwelling Unit Prototype Plans and Manual

In June 2022, the City completed ADU prototype plans and an ADU Manual to help facilitate the construction of ADUs and eliminate the cost and time for homeowners to prepare their own plans. RRM Design Group, an architectural consulting firm, prepared the City's ADU prototype plans. There are eight different plans, including five detached ADUs and three plans for converting a garage to an ADU. The prototype plans include studios, one-bedroom, and two-bedroom ADUs that range in size from 224 to 909 square feet. The ADUs are available in three different architectural styles: Spanish, Traditional and Modern, which gives homeowners options for choosing the style, color and materials most compatible with the primary structure. The permit-ready prototype plans include floor plans, elevations, electrical and plumbing plans, structural calculations, and

preliminary energy calculations that have been reviewed for compliance with all required construction codes and are provided by the City to homeowners at no charge. The homeowner is responsible for preparing site-specific plans, such as a site plan and geotechnical report. These plans are estimated to save homeowners approximately $15,000 in architectural/design services, structural engineering services, and energy document preparation, as well as time. Pursuant to Assembly Bill 434 effective on January 1, 2025, cities are required to have preapproved ADU plans. The City's ADU prototype plans meet this requirement.

The ADU Manual is a how-to-guide designed for homeowners who are not familiar with the development process or looking for information about ADUs. Contents of the ADU Manual include where to start, design considerations, ADU concepts and prototypes, implementation, glossary and resources.

Fee Waivers

Impact Fee Waiver
Pursuant to Senate Bill (SB) 13, effective January 1, 2020, through January 1, 2025, ADUs less than 750 square feet are not subject to impact fees and ADUs 750 square feet or larger are subject to impact fees proportional to the primary dwelling unit. On March 25, 2024, SB 477 was approved by the Governor, which made non-substantive changes and reorganized various provisions of State law relating to the creation and regulation of ADUs. Included was removal of an end date for impact fee waivers, effective January 1, 2025. Staff will update the City's Impact Fee Schedule accordingly.

Permit Fee Waiver
To further incentivize ADUs, the City waived building permit fees for ADUs applied for between January 1, 2022, and December 31, 2026. This permit fee waiver excludes State surcharges for the Strong Motion Instrumentation Program (SMIP) and Green Building fees and does not apply to ADUs built to satisfy obligations under the City's Inclusionary Zoning Regulations. Permit fees are waived for ADUs less than 750 square feet and ADUs 750 square feet or larger that are deed restricted as lower-income units for a period of 55 years. This results in savings of approximately $2,500 to $6,000 depending on the valuation of the ADU. The City Council may choose to further extend the provisions of the Permit Fee Waiver beyond December 31, 2026.

Marketing Efforts
The City launched an ADU webpage in 2021 as a one-stop-shop for information and resources to assist residents with building an ADU on their property. Two key features of the webpage include the permit-ready prototype plans and the ADU Manual. This webpage also includes a summary of the City's efforts to incentivize ADUs, information on impact fee and permit fee waivers, and other resources. The City has posted articles about the ADU prototype plans and fee waivers in news briefs, annual newsletters and on social media sites. In addition, in April 2024, Staff participated in the Alameda County Assessor's Office Homeowners Fair. Staff provided a presentation on building ADUs in Dublin, shared resources available to homeowners, including the prototype plans, ADU Manual, and fee waivers, and provided informational materials at the City's booth.

Accessory Dwelling Unit Production

Since January 2022, the City has received 44 building permit applications for ADUs as shown in Table 1 below. Of the 44 applications, 40 received a permit fee waiver (39 were for ADUs that were less than 750 square feet, and one was larger than 750 square feet but was deed-restricted as a lower-income unit). The permit fees waived by the City total $166,009.

Permits were issued for 23 ADUs and impact fees were waived for 22 of those ADUs (21 ADUs were less than 750 square feet, one ADU was larger than 750 square feet and deed-restricted as a lower-income unit, and one ADU was larger than 750 square feet but not deed-restricted as a lower-income unit). Two applicants decided not to proceed with construction of their ADU after their permits were issued.

Table 1: ADU Building Permit Activity (January 2022 – November 2024)

Status	Number of ADUs
In Review	14
Under Construction	14
Completed	7
Cancelled or Expired	9
TOTAL	**44**

Usage of Prototype Plans

Since June 2022 when the permit-ready prototype plans were made available to the public, there have been 13 inquiries about the plans and four building permit applications that have been received using a prototype plan. One application is currently under review, one is currently under construction, and the remaining two were cancelled/expired.

In November 2024, Staff conducted a survey of the 44 homeowners/applicants that applied for an ADU since 2022 to ask if they considered using the prototype plans, and if they did not use them, what was the reason. Thirteen responses were received with respondents noting they did not use the plans either because they are not customizable and/or did not fit within the parameters of their property, they were already using a contractor, or they estimated that it would be more expensive to build a prototype plan and instead decided to build a prefabricated ADU as a less expensive option. In addition, some respondents did not know of the plans.

ADU Accelerator Program

Senator Glazer secured funding from the California Department of Housing and Community Development for an ADU Accelerator Program for cities in District 7. The purpose of the program is to increase the production of ADUs. Funds from the program can be used to create/update ADU prototype plans and to offer incentives to homeowners constructing ADUs through a program administered by the City. Funding is based on a per capita amount of $1.87 per resident. Dublin's allocation is $186,353, including $50,000 for prototype plans and $136,353 for homeowner incentives. Staff has prepared an application to participate in the ADU Accelerator Program.

The City's prototype plans will require updates to reflect Building Code amendments that will be effective on January 1, 2026. Funds from the Accelerator Program can help defray the City's cost to

update the prototype plans. Incentives to homeowners are based on the size and affordability of the ADU they construct. Maximum incentives are provided to homeowners that agree to deed restrict their ADU to lower income households. Table 2 reflects the range of homeowner incentives.

Table 2: ADU Incentives

ADU Size	Deed Restricted	Non-Restricted
Under 500 s.f.	$15,000	$7,500
Under 750 s.f.	$10,000	$5,000
Under 1,000 s.f.	$5,000	$2,500

Next Steps

Staff will continue to promote the City's efforts to facilitate the production of ADUs. Additionally, Staff will explore opportunities to improve the use of prototype plans, including a review of the plan types and opportunities to team up with other jurisdictions to maintain prototype plans in compliance with State law and current construction codes. Staff will submit the application to participate in Senater Glazer's ADU Accelerator Program. Staff will return to the City Council in 2026 to discuss an extension of the building permit fee waiver program prior to its expiration.

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.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted.

ATTACHMENTS:

None.

Accessory Dwelling Units

City Council Meeting

December 3, 2024



DUBLIN
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Overview

- City Council will receive a report on ADUs including:
  - ADU Prototype Plans and Manual
  - Impact and Building Permit Fee Waivers
  - Marketing Efforts
  - ADU Production
  - ADU Accelerator Program
  - Next Steps

Accessory Dwelling Unit Prototype Plans

- 8 different ADU prototype plans: 5 plans designed as detached, and 3 plans designed to convert a garage
- Include studios, one-bedroom and two-bedroom ADUs that range in size from 224 – 909 square feet
- 3 different architectural styles: Spanish, Traditional and Modern, to give homeowners options for choosing style, color, and materials most compatible with primary dwelling



ADU Prototype Plans and Manual

- Include floor plans, elevations, electrical and plumbing plans, structural calculations, and energy calculations
- Estimated to save homeowners approximately $15,000 in architectural/design services
- Assembly Bill 434 effective on January 1, 2025, requires cities to have preapproved ADU plans
- City ADU Manual "how-to guide" for building ADU/JADU



Fee Waivers

- Impact Fee Waiver: ADUs less than 750 SF are not subject to impact fees
  - Effective January 1, 2025, SB 477 removes the end date for impact fee waivers and makes it permanent
- Building Permit Fee Waiver: January 1, 2022 – December 31, 2026
  - Applies to ADUs less than 750 SF, or ADUs greater than 750 SF that are deed restricted as a lower income unit for 55 years
  - Savings of approximately $2,500 to $6,000 depending on the valuation of ADU
  - City Council may choose to extend building permit fee waivers beyond December 31, 2026

Marketing Efforts

- City's ADU webpage is a "one-stop-shop" for information and resources
- Posted articles about ADU prototype plans and fee waivers in news briefs, annual newsletters and on social media sites
- April 2024, Staff participated in Alameda County Assessor's Office Homeowners Fair and promoted the City's ADU prototype plans and Manual, and impact and building permit fee waivers

ADU Production

ADU Building Permit Activity (Jan. 2022 – Nov. 2024)

Status	Number of ADUs
In Review	14
Under Construction	14
Completed	7
Cancelled or Expired	9
TOTAL	44

- Permit Fee Waiver Received: 40 (39 ADUs less than 750 SF, one ADU greater than 750 SF but deed restricted as a lower income unit)
- Impact Fee Waiver Received: 22 (21 ADUs less than 750 SF, one ADU greater than 750 SF but deed restricted as a lower income unit)

Usage of Prototype Plans

- Since June 2022, 13 inquiries about prototype plans and four building permit applications received using a prototype plan:
  - One application is currently under review, one is currently under construction, and remaining two were cancelled/expired
- In November 2024, Staff conducted survey of 44 homeowners/applicants that applied for an ADU since 2022 to understand why they did not use the prototype plans:
  - 13 responses received:
    - Not customizable/fit within parameters of property
    - Already using a contractor
    - Prototype plans were too expensive to build
    - Not aware of plans

ADU Accelerator Program

- Senator Glazer secured funding from HCD for ADU Accelerator Program
- Purpose is to increase production of ADUs
- Funds from program can be used to create/update ADU prototype plans and offer incentives to homeowners constructing ADUs
- Staff has prepared application to participate in ADU Accelerator Program

Next Steps

- Promote City's efforts to facilitate production of ADUs
- Explore opportunities to improve use of prototype plans and work with other jurisdictions to maintain prototype plans in compliance with State law and current construction codes
- Submit application to participate in ADU Accelerator Program
- Staff will return to City Council in 2026 to discuss extension of building permit fee waiver program prior to its expiration

Agenda Item 8.2

STAFF REPORT
CITY COUNCIL

DATE: December 3, 2024

TO: Honorable Mayor and City Councilmembers

FROM: Colleen Tribby, City Manager

SUBJECT: Francis Ranch Parks – Conceptual Designs
Prepared by: Rosemary Alex, Parks and Facilities Development Coordinator

EXECUTIVE SUMMARY:

The City Council will consider the conceptual plans for each of the two 5.5-acre Francis Ranch neighborhood parks.

STAFF RECOMMENDATION:

Receive the presentation and approve the conceptual designs for the Francis Ranch neighborhood parks.

FINANCIAL IMPACT:

There is no financial impact associated with this item. On June 25, 2024, the City Council approved the Park Improvement Agreement with TH East Ranch Dublin, LLC (Developer) to complete the design and construction of the parks. The Agreement included an estimated cost of $9,814,321 to design and construct the parks. The Agreement allows the Developer to receive fee credits up to the amount allowed in the Public Facility Fee Program. After the approval of the Agreement, the Developer agreed to augment the project budget by $800,000 to cover the cost of two potable water meters to serve the irrigation needs of each park.

DESCRIPTION:

The Francis Ranch development (formerly known as East Ranch) is located north of Interstate 580, east of Fallon Road and the Jordan Ranch development, south of the Positano development, and adjacent to the City's eastern city boundary. The development is being subdivided into six neighborhoods and two public parks. The developer is collaborating with Staff to facilitate the design and construction of two new 5.5-acre parks, the Northern Park and the Southern Park. Concept plans for both parks are provided as Attachment 1.

Community Input Process

The Community Input Process for the two parks included collecting feedback from the community (the Listening Phase), developing two conceptual plans for each park (the Interpretation Phase), and adjusting the plans and receiving recommendations from the Parks and Community Services Commission (the Refining Phase). The Community Input Process concludes upon approval of the concept plans by the City Council.

Listening Phase

In early August 2024, Staff provided direct mail communications to over 900 households in neighborhoods surrounding the future parks, e-mail communications to the Parks and Community Services Department's recreation software mailing list, and the City's Eastside Park Development e-mail subscription lists to receive community input. Additional communications included postings in the City's Backyard Brief, social media platforms, and notifications to Dublin youth/adult sports organizations. The communications included links to a survey and an invitation to participate in an online community meeting. As a result of the public outreach, the City received over 250 responses to the survey, and four residents participated in the September online meeting. Survey #1 results are provided in Attachment 2.

Interpretation Phase

The feedback from the online meeting and survey were analyzed, and two concept plans for each park were developed. The second engagement with the public occurred during the City's Splatter event on September 14, 2024, and over 175 community members visited the project booth. After Splatter, a second survey was sent to those who responded to the first survey, and 165 responses were received. The combined outreach resulted in 340 participants who provided verbal and written feedback regarding their preferences for the parks. Survey #2 results are provided in Attachment 3.

At the conclusion of this portion of the community input process, the Northern Park Concept B received 184 votes and Concept A received 156 votes. The Southern Park Concept A received 195 votes and Concept B received 143. In addition, the survey provided three park themes for survey participant consideration. The theme of Exploration (of self, world, ideas) received 206 votes, the Elemental Universe theme received 74 votes, and the Ranch theme received 70 votes. Additional information from the survey results will help inform what play equipment is selected when the project moves into the design development stage.

Refinement Phase

Staff, the Developer, and the design team, Gates and Associates, further refined the park designs based on the public input and the concept plan cost estimates. The key change in the Northern Park was to shift the trees from the center of the main walk to alongside the walk. In the Southern Park, the main change was consolidating the tennis and pickleball courts into a shared court system to keep estimated project costs within the approved budget. The tennis-pickleball courts were also relocated to increase the distance from planned residences and reduce potential noise impacts from the courts.

To integrate the Exploration theme, each park design will highlight a specific geographic area related to exploration. The Northern Park concept design proposes "Exploring California" to

showcase the diverse landscapes and rich history of the state. The Southern Park concept design proposes “Exploring the Bay Area” which highlights the unique cultural and natural features that define the region. Both proposed concept plans include photographs to illustrate how the Exploration theme could be included in the future detailed design plans for each park (Attachment 3).

The Northern Park concept plan includes the following amenities:

- Reservable picnic area with shade elements and BBQ
- Fitness stations
- Playgrounds for ages 2 to 5 years and 5 to 12 years
- Dog park
- Meditation garden
- Grass area for free play
- Interior pathways for circulation and exercise
- Restroom

The Southern Park concept plan includes the following amenities:

- One multi-use court (one tennis court with an overlay of four pickleball courts)
- One basketball court
- Two bocce courts
- Picnic tables and shade elements adjacent to multi-use court
- Reservable picnic area with shade elements and BBQ
- Playgrounds for ages 2 to 5 years and 5 to 12 years
- Pollinator garden
- Grass area for free play
- Interior pathways for circulation and exercise
- Restroom

At the November 18, 2024 Parks and Community Services Commission meeting, the Commission recommended approval of both the North Park and South Park concept plans without any modifications.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

The City Council Agenda was posted and was e-mailed to the individuals who participated in the public meetings.

ATTACHMENTS:

1) Francis Ranch Parks Concept Plans
2) Community Survey Results
3) Design Survey Results



LEGEND

1. Play Area
2. Central Green
3. Drycreek Arroyo
4. Walkways and Trails
5. Restroom w/Drinking Fountain
6. Shade Structure
7. Shade Trees
8. Street Trees
9. Dog Park
10. Ornamental Fence
11. Connection To Fallon Village Regional Trail
12. Fitness Equipment
13. Park Sign
14. BBQ Area
15. Overlook
16. Flex Space
17. Meditation Garden
18. Picnic Area

THEME- EXPLORATION - CALIFORNIA





LEGEND

1. Play Area
2. Central Green
3. Drycreek Arroyo
4. Walkways and Trails
5. Restroom w/Drinking Fountain
6. Shade Structure
7. Bocce Courts (2)
8. Basketball Full Size Court
9. Tennis Courts (1) + Pickleball Courts (4)
10. Pollinator Garden
11. Street Trees
12. Shade Trees
13. Park Sign
14. BBQ Area
15. Overlook
16. Flex Space
17. DG Walkway

THEME- EXPLORATION -BAY AREA



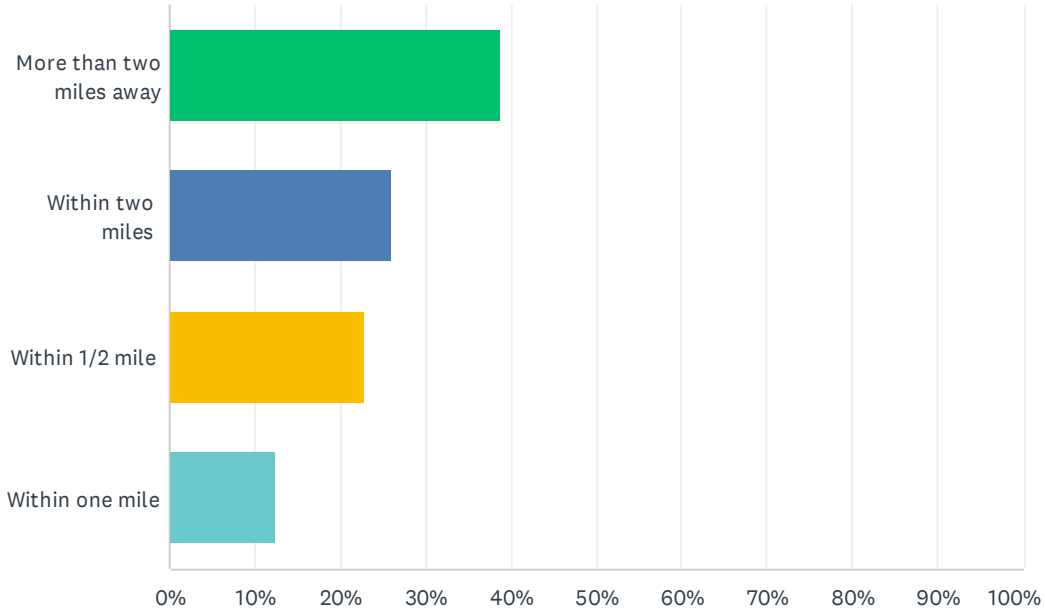







Q1 How far from the future parks do you live, work, or go to school? Select one (1) option.

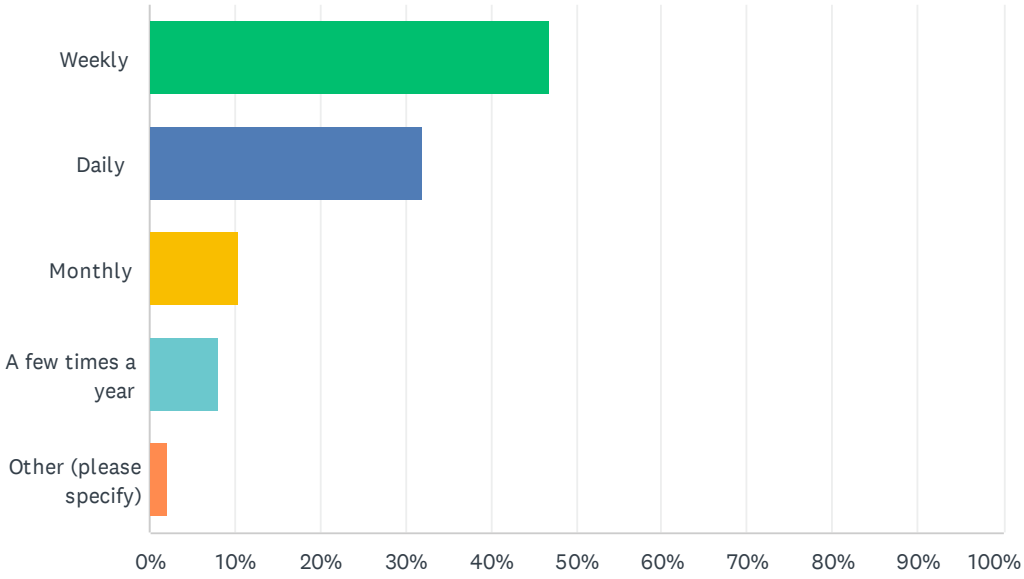
Answered: 268 Skipped: 0



ANSWER CHOICES	RESPONSES	
More than two miles away	38.81%	104
Within two miles	26.12%	70
Within 1/2 mile	22.76%	61
Within one mile	12.31%	33
TOTAL		268

Q2 How often do you currently visit your local parks? Select one (1) option or write your response in 'Other.'

Answered: 268 Skipped: 0

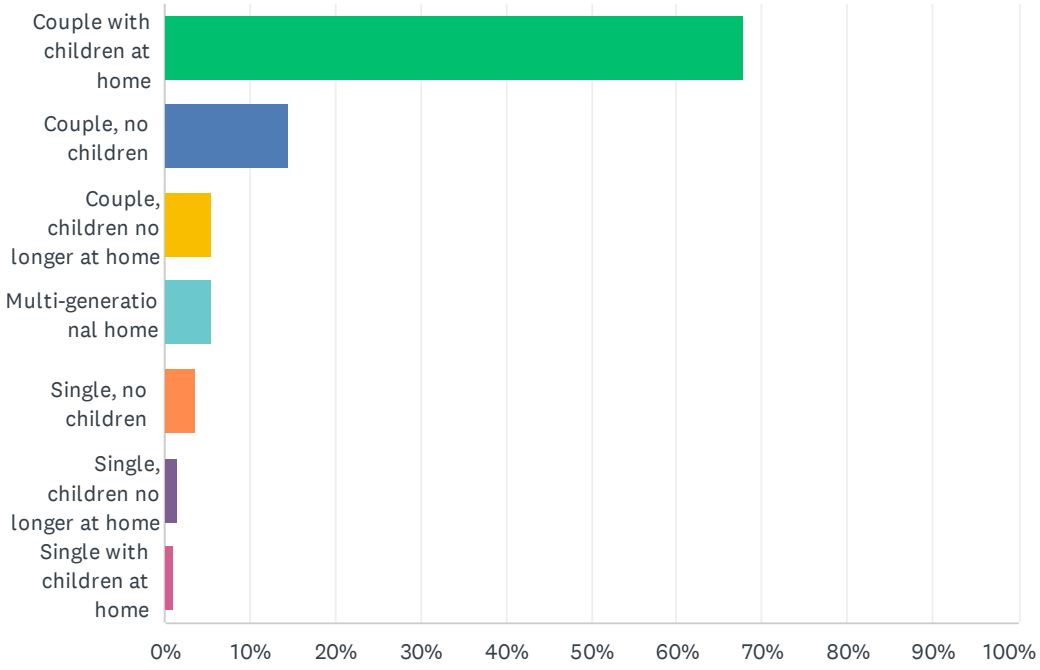


ANSWER CHOICES	RESPONSES	
Weekly	47.01%	126
Daily	32.09%	86
Monthly	10.45%	28
A few times a year	8.21%	22
Other (please specify)	2.24%	6
TOTAL		268

#	OTHER (PLEASE SPECIFY)	DATE
1	When I have a dog, every day	8/18/2024 10:05 AM
2	Multiple sports	8/7/2024 5:38 PM
3	Almost weekly	8/3/2024 12:11 PM
4	Multiple times a week	8/1/2024 2:10 PM
5	Rarely	8/1/2024 12:38 PM
6	Couple of times in a week	8/1/2024 12:02 PM

Q3 Which category best describes your household? Select one (1) option.

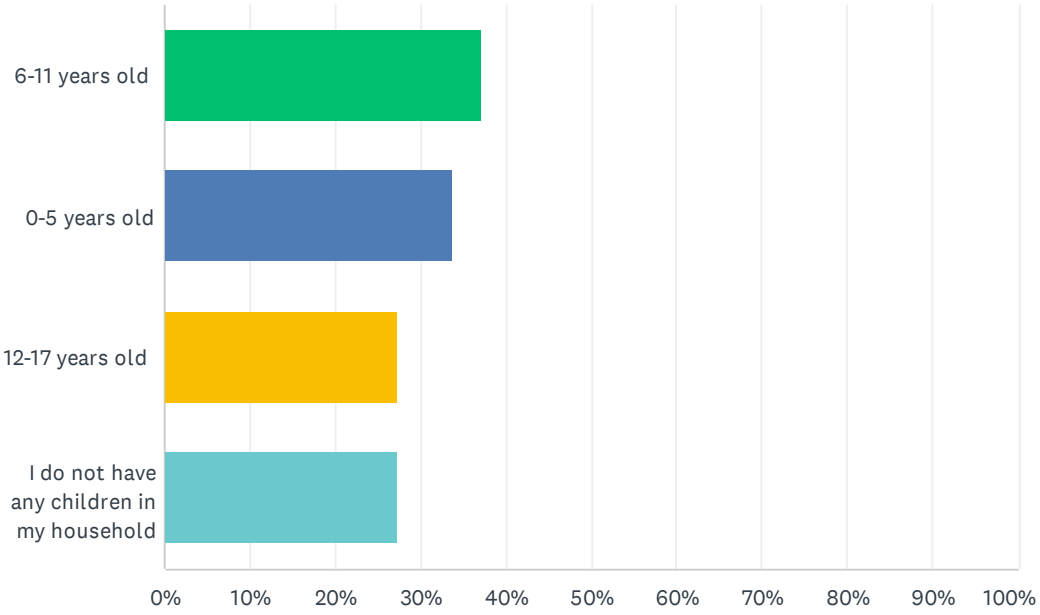
Answered: 268 Skipped: 0



ANSWER CHOICES	RESPONSES	
Couple with children at home	67.91%	182
Couple, no children	14.55%	39
Couple, children no longer at home	5.60%	15
Multi-generational home	5.60%	15
Single, no children	3.73%	10
Single, children no longer at home	1.49%	4
Single with children at home	1.12%	3
TOTAL		268

Q4 Please select the age ranges of any children under age 18 in your household. Select all that apply.

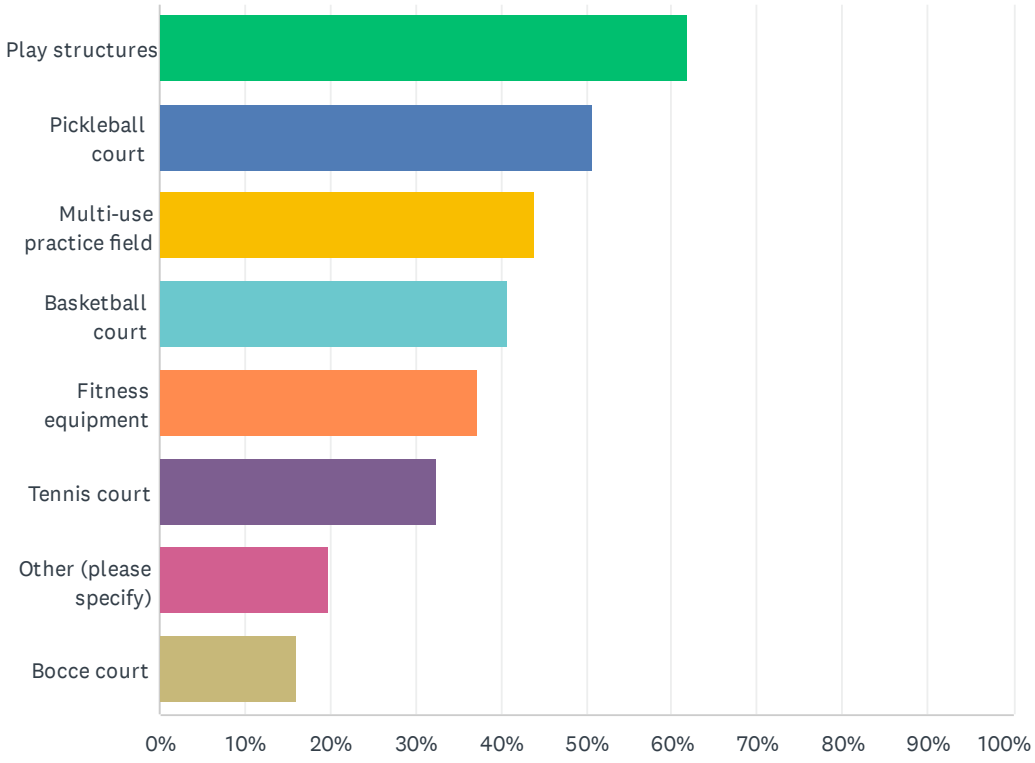
Answered: 261 Skipped: 7



ANSWER CHOICES	RESPONSES	
6-11 years old	37.16%	97
0-5 years old	33.72%	88
12-17 years old	27.20%	71
I do not have any children in my household	27.20%	71
Total Respondents: 261		

Q5 Which active park amenities would you like to see in the future Francis Ranch parks? Select your top three (3) options or write your response in 'Other.'

Answered: 268 Skipped: 0



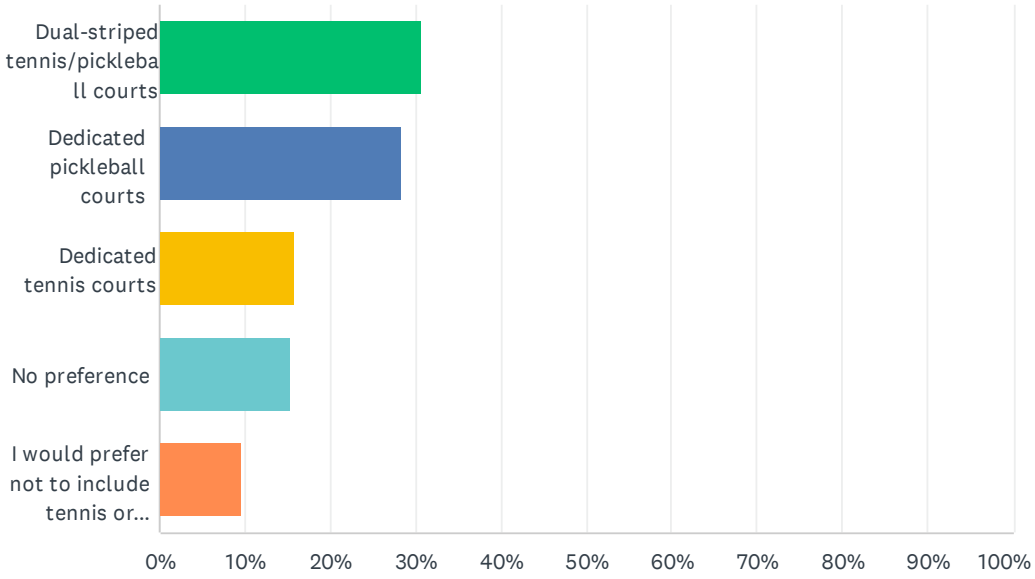
ANSWER CHOICES	RESPONSES	
 Play structures	61.94%	166
 Pickleball court	50.75%	136
 Multi-use practice field	44.03%	118
 Basketball court	40.67%	109
 Fitness equipment	37.31%	100
 Tennis court	32.46%	87
Other (please specify)	19.78%	53
 Bocce court	16.04%	43
Total Respondents: 268		

#	OTHER (PLEASE SPECIFY)	DATE
1	Hi	8/18/2024 10:02 AM
2	Pool	8/17/2024 7:05 PM
3	Add a body of water	8/17/2024 9:27 AM
4	Badminton courts	8/16/2024 7:48 AM
5	Golf course	8/16/2024 4:49 AM
6	Splash Pads	8/15/2024 10:27 PM
7	Dog park	8/15/2024 3:22 AM
8	No	8/14/2024 11:31 PM
9	Grass Volleyball court	8/14/2024 10:52 PM
10	Water play and sand play area for kids.	8/14/2024 9:27 PM
11	Garden/tree grove	8/14/2024 8:25 PM
12	Pool	8/14/2024 8:17 PM
13	Badminton/volleyball courts	8/14/2024 7:45 PM
14	Futsal court! It is a growing sport with huge demand	8/14/2024 7:34 PM
15	Official track field open to the public for running	8/14/2024 7:25 PM
16	Volleyball Outdoor Court (not sand, outdoor sport court tile)	8/14/2024 7:21 PM
17	Picnic grills and benches	8/13/2024 12:33 PM

18	Dog park	8/11/2024 7:55 PM
19	Swimming Pool	8/11/2024 11:11 AM
20	Since Dublin loves it’s Veterans, how about something U.S. Veteran oriented?	8/11/2024 12:35 AM
21	Pool	8/9/2024 10:31 AM
22	Flag Football field. Soon to be in the Olympics.	8/9/2024 12:51 AM
23	splash pad	8/8/2024 2:31 PM
24	Baseball fields	8/7/2024 5:38 PM
25	Water feature	8/7/2024 12:53 PM
26	Water park	8/5/2024 9:41 PM
27	MORE TENNIS COURTS NOT PICKLEBALL ITS A FAD	8/5/2024 9:34 PM
28	trees! BIG trees! MORE trees!	8/5/2024 12:58 PM
29	picnic area	8/4/2024 7:10 PM
30	Sitting area in many spots so parents and grandparents can sit and watch their children play, drinking water, and toilet	8/3/2024 12:11 PM
31	Splash pad or water play	8/3/2024 10:08 AM
32	Splash pad/ sandbox	8/2/2024 7:05 PM
33	Large dog park(s).	8/2/2024 5:28 PM
34	Bike Park/ Pump track/ a REAL dog park	8/2/2024 3:24 PM
35	Small water feature like downtown Livermore	8/2/2024 3:11 PM
36	Shade	8/2/2024 1:57 PM
37	Shade! We REALLY need legitimate shade over the parks. And more seating for adults near the play equipment.	8/2/2024 11:22 AM
38	Baseball field	8/2/2024 10:21 AM
39	please include SUBSTANTIAL plans for shaded play areas. Most of Dublin’s new parks are beautiful but offer too little shade!	8/2/2024 10:09 AM
40	natural open space with trails	8/2/2024 8:38 AM
41	Picnic areas	8/2/2024 7:37 AM
42	Splash pad	8/2/2024 12:05 AM
43	Skate park	8/1/2024 10:27 PM
44	Walking trail around a lake or pond that motivates going out to walk and relax/sit without having to engage in a specific activity per se.	8/1/2024 9:51 PM
45	Zip line	8/1/2024 9:10 PM
46	Splash pad	8/1/2024 9:06 PM
47	Cricket cages	8/1/2024 8:53 PM
48	Garden or lake	8/1/2024 7:15 PM
49	Badminton court, ping pong table, racket ball, swimming pool	8/1/2024 6:37 PM
50	Dog park	8/1/2024 4:32 PM
51	Dog park, badminton court	8/1/2024 4:22 PM
52	Community garden plots	8/1/2024 3:33 PM
53	Skateboard park	8/1/2024 2:00 PM

Q6 What is your preference for tennis and pickleball courts? Select one (1) option.

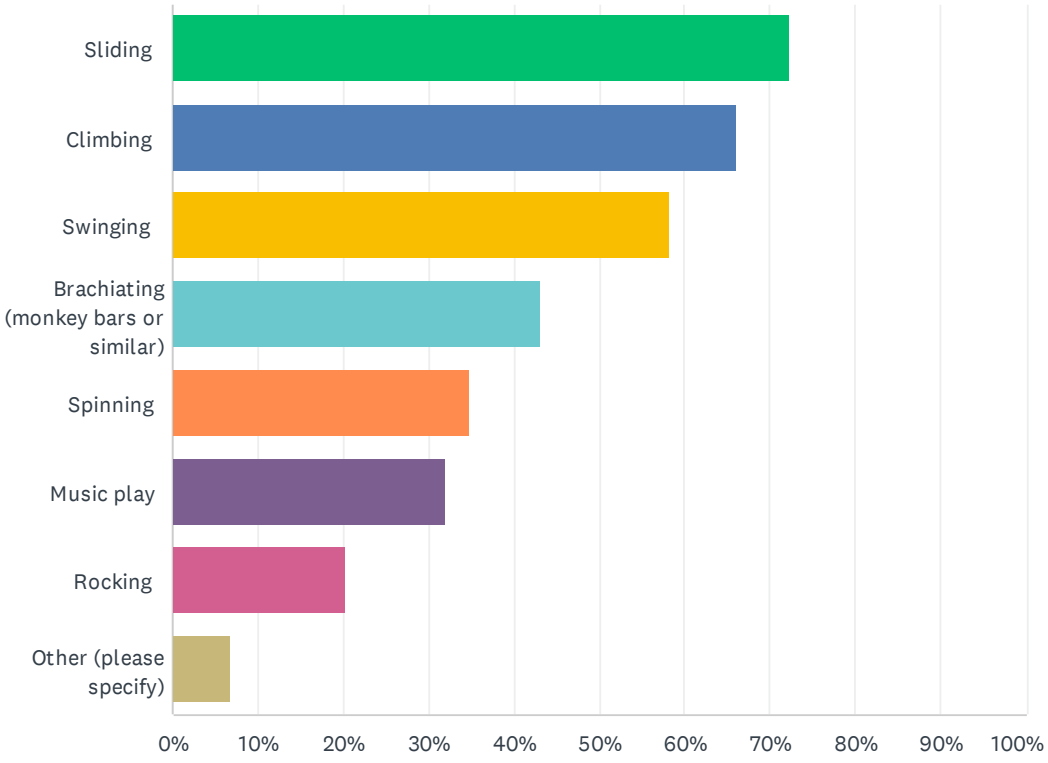
Answered: 260 Skipped: 8



ANSWER CHOICES	RESPONSES	
 Dual-striped tennis/pickleball courts	30.77%	80
 Dedicated pickleball courts	28.46%	74
 Dedicated tennis courts	15.77%	41
No preference	15.38%	40
I would prefer not to include tennis or pickleball courts.	9.62%	25
TOTAL		260

Q7 What type of play features would you like to see included in the play structure design? Select your top three (3) options or write your response in 'Other.'

Answered: 253 Skipped: 15



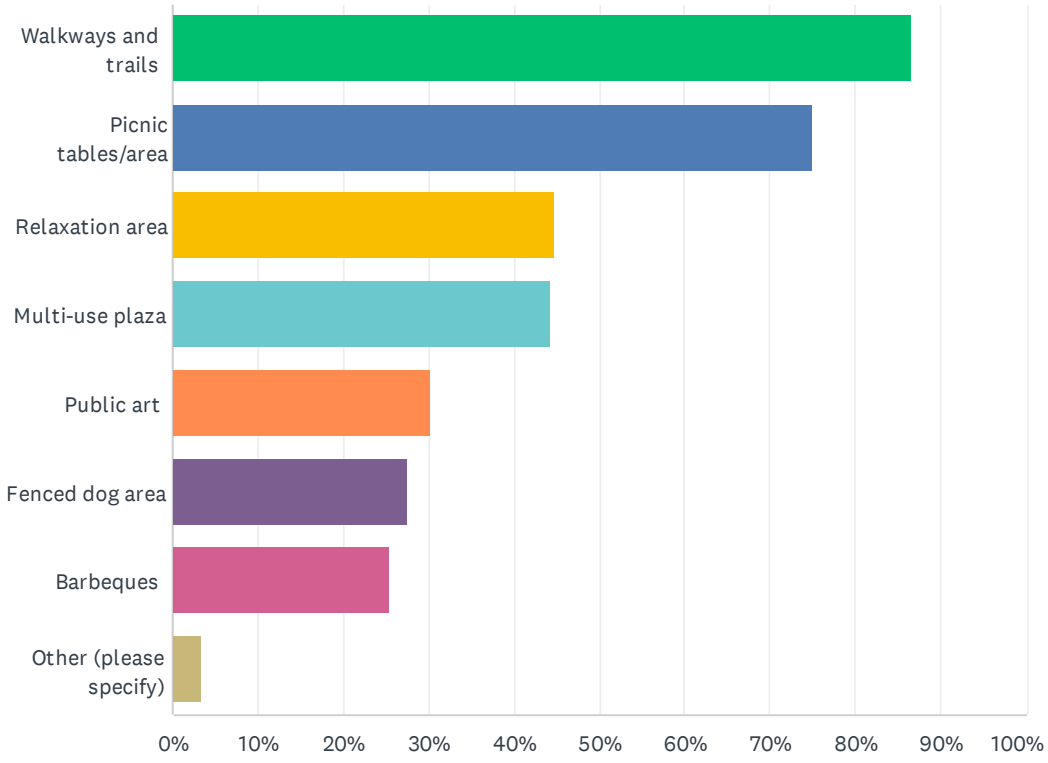
ANSWER CHOICES	RESPONSES	
 Sliding	72.33%	183
 Climbing	66.01%	167
 Swinging	58.10%	147
 Brachiating (monkey bars or similar)	43.08%	109
 Spinning	34.78%	88
 Music play	32.02%	81
 Rocking	20.16%	51
Other (please specify)	6.72%	17
Total Respondents: 253		

#	OTHER (PLEASE SPECIFY)	DATE
1	Include adult options	8/17/2024 7:05 PM
2	Zip line	8/15/2024 3:45 PM
3	Zip line	8/15/2024 3:09 PM
4	Water and sand	8/14/2024 9:27 PM
5	Shaded sandbox	8/14/2024 7:30 PM
6	soccer field	8/7/2024 10:17 PM
7	Rock climbing	8/7/2024 12:53 PM
8	climbing, but not like the one pictured	8/5/2024 12:58 PM
9	Marry-go-round	8/3/2024 12:11 PM
10	Zip lines, Bounce bags (Jollystone park on the Delta), and BIG slides	8/2/2024 3:24 PM
11	Zip line	8/2/2024 10:41 AM
12	Reiterating my request for SUBSTANTIAL shaded play areas. The summer sun is too strong for little kids!	8/2/2024 10:09 AM
13	None	8/2/2024 9:37 AM
14	options for small toddlers and single use play items	8/2/2024 8:38 AM
15	Water play structure - similar to Emerald Glen Park	8/1/2024 10:27 PM
16	Splash pad, water park	8/1/2024 4:22 PM

17	Magic playground/all inclusive	8/1/2024 3:33 PM

Q8 Which passive park amenities would you like to see included in the park designs? Select your top three (3) options.

Answered: 268 Skipped: 0

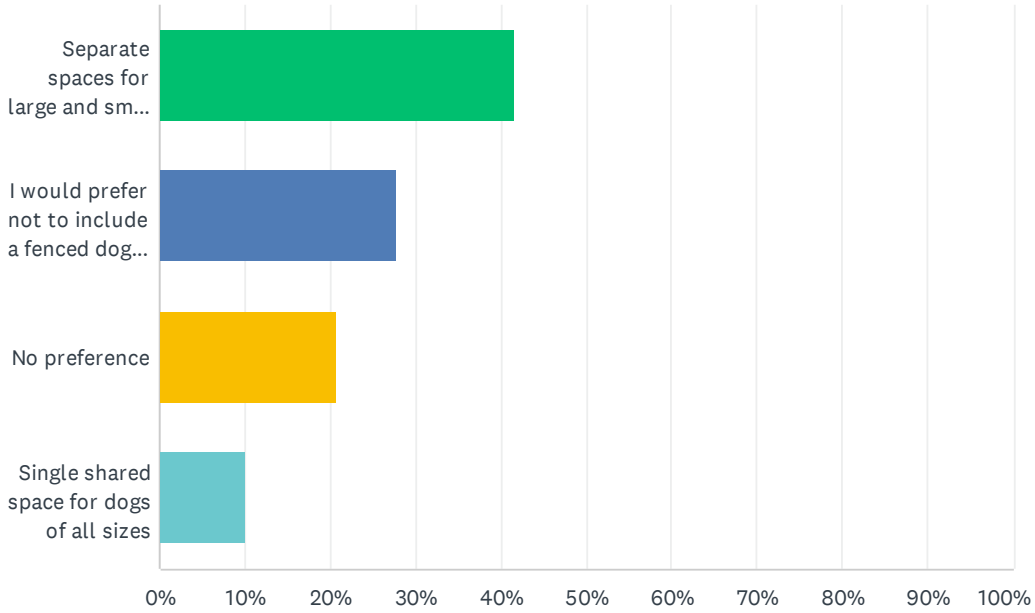


ANSWER CHOICES	RESPONSES	
 Walkways and trails	86.57%	232
 Picnic tables/area	75.00%	201
 Relaxation area	44.78%	120
 Multi-use plaza	44.40%	119
 Public art	30.22%	81
 Fenced dog area	27.61%	74
 Barbeques	25.37%	68
Other (please specify)	3.36%	9
Total Respondents: 268		

#	OTHER (PLEASE SPECIFY)	DATE
1	Hammocks	8/16/2024 3:59 PM
2	Hall for rental	8/14/2024 8:17 PM
3	More shaded areas	8/14/2024 7:45 PM
4	Shade	8/9/2024 10:31 AM
5	Waterfalls; lake; stream; etc.	8/2/2024 5:28 PM
6	Shade! And seating	8/2/2024 11:22 AM
7	Shaded area	8/1/2024 10:11 PM
8	Doggie swimming pool	8/1/2024 6:37 PM
9	Pool	8/1/2024 3:59 PM

Q9 What configuration would you prefer for a fenced dog area? Select one (1) option.

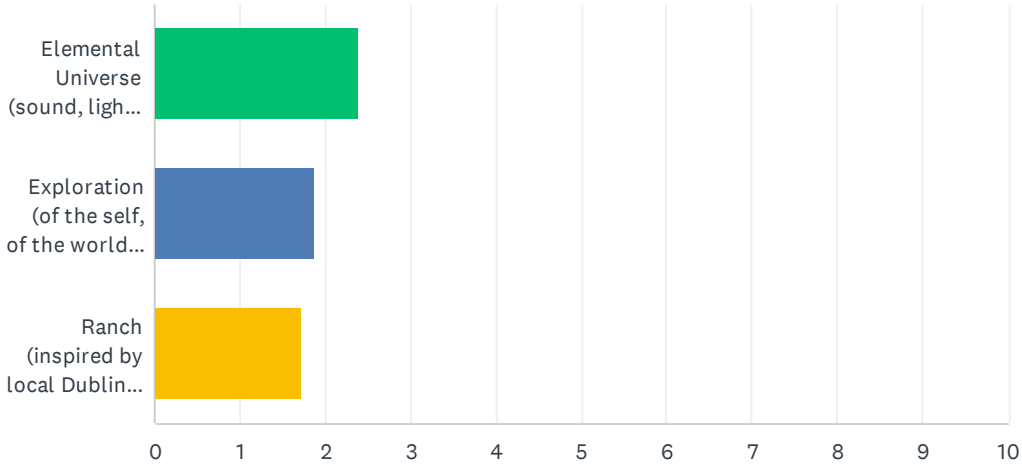
Answered: 252 Skipped: 16



ANSWER CHOICES	RESPONSES	
 Separate spaces for large and small dogs	41.67%	105
I would prefer not to include a fenced dog area.	27.78%	70
No preference	20.63%	52
 Single shared space for dogs of all sizes	9.92%	25
TOTAL		252

Q10 Please rank the following potential park themes in order of preference, with 1 being the theme you like most and 3 being the theme you like least. Use the arrows or click and drag the theme options to change the order.

Answered: 247 Skipped: 21



	1	2	3	TOTAL	SCORE
Elemental Universe (sound, light, time, space, air, fire, water, earth)	55.06% 136	29.15% 72	15.79% 39	247	2.39
Exploration (of the self, of the world, of ideas)	18.22% 45	51.42% 127	30.36% 75	247	1.88
Ranch (inspired by local Dublin ranching history)	26.72% 66	19.43% 48	53.85% 133	247	1.73

Q11 Are there any other park themes you think might be appropriate? If so, please explain.

Answered: 34 Skipped: 234

#	RESPONSES	DATE
1	Elemental universe	8/15/2024 4:27 PM
2	Include water related activities/ structures that children can use during summer months	8/15/2024 1:03 PM
3	Lighted tennis courts	8/15/2024 6:27 AM
4	Exploration	8/15/2024 3:36 AM
5	Bench areas around play structure are needed for parents to watch the kids.	8/14/2024 10:48 PM
6	Pls add some kind of water feature	8/14/2024 10:38 PM
7	Lot of trees and greenery	8/14/2024 10:14 PM
8	Character themes are really popular and kids love them.	8/14/2024 1:40 PM
9	Kids outdoor workout structures	8/8/2024 8:17 AM
10	Mabey Since its named Future it could have modern Play sets	8/5/2024 9:49 PM
11	Science and technology, art	8/5/2024 9:41 PM
12	Not sure, but the three themes shown are awful. Why must there be a theme? I want to see LARGE trees and trails and space to play a pickup game of soccer.	8/5/2024 12:58 PM
13	N/a	8/2/2024 7:05 PM
14	History of Indigenous Californians	8/2/2024 5:28 PM
15	More trees and exercise equipment. I don’t understand why we don’t have some of this outdoor equipment in parks that they do in some of the Asian countries. Not just one piece of equipment, but I’m talking multiple pieces of equipment. Also, these wide-open spaces of just grass are wasted. We need to plant more trees, they help with climate control. It’s the easiest and fastest thing we can do.	8/2/2024 5:16 PM
16	As long as the development of the play theme excites the imagination of the child anything can be successful.	8/2/2024 3:24 PM
17	Throw a shamrock in here or there.	8/2/2024 3:11 PM
18	n/a	8/2/2024 1:32 PM
19	Agricultural and ranch lands animals.	8/2/2024 11:11 AM
20	NA	8/2/2024 11:10 AM
21	We need park near Dublin Heritage park, there is no walkable park near by that have play structure	8/2/2024 10:48 AM
22	They all sound good.	8/2/2024 10:41 AM
23	Any use for the community to gather and spend time in the outdoors. But please no more dog parks in Dublin - focus on children and families.	8/2/2024 10:23 AM
24	Old town western theme , pioneer days , wagon ride type of stuff.	8/2/2024 10:19 AM
25	Just a regular park nothing fancy	8/2/2024 8:43 AM
26	Nature theme - similar to Outlook playground at Presidio Tunnel Tops. The use of nature theme allows residents to escape the feel of an urban jungle (with all the new houses and structures).	8/1/2024 10:27 PM

27	Multi cultural theme	8/1/2024 6:52 PM
28	Japanese garden - cherry blossom trees (would be nice to have a cherry blossom festival in the future)	8/1/2024 6:37 PM
29	Add a small water park.	8/1/2024 5:09 PM
30	N/a	8/1/2024 4:32 PM
31	Nature, relaxation	8/1/2024 3:36 PM
32	Environmental sustainability	8/1/2024 12:38 PM
33	Would love to have 4 - 8 dedicated pickleball courts with lights and windscreens.	8/1/2024 11:59 AM
34	Dedicated 4-8 pickleball courts with overhead cover and open sides, each court have a short fence separation. Lighted with timers.	8/1/2024 11:50 AM

Q12 Do you have any other ideas or comments you would like to share about the future Francis Ranch parks?

Answered: 72 Skipped: 196

#	RESPONSES	DATE
1	Body of water such as a fountain, pond or lake.	8/17/2024 8:10 PM
2	A body of water would be nice	8/17/2024 9:27 AM
3	Maybe something with water for kids to get wet for summer.	8/16/2024 3:59 PM
4	Zip lines	8/15/2024 10:37 PM
5	Please add another large splash pad similar to emerald glen park!	8/15/2024 10:27 PM
6	Swimming lanes	8/15/2024 8:17 PM
7	No	8/15/2024 4:27 PM
8	Trees for more shade	8/15/2024 3:45 PM
9	Ability to reserve tennis courts	8/15/2024 6:27 AM
10	Provide shaded areas near playground	8/15/2024 3:36 AM
11	Lack of trees and shade in Positano Park and Fallon Sports Park affects park use in Summer months. Dublin Sports Grounds has the best shade. Choice of trees planted is vastly superior to recently built ones. Play structures used in Don Biddle is worst as kids routinely get hurt. Their play structures is suited for male kids who can handle dare and roughness.	8/14/2024 10:48 PM
12	No fenced dog park pls	8/14/2024 10:38 PM
13	Grow lot of trees and greenery	8/14/2024 10:14 PM
14	It is very important that you SEPARATE tennis courts from pickleball courts. There are not enough tennis courts in the east bay and pickleball has taken over and caused a huge problem for devoted tennis players. The city of Dublin made a big mistake at Don Biddle park by declaring that you could play pickleball on the tennis courts. You completely ruined them with distracting lines, and caused huge arguments between residents because of the confusing and contradictory rules on your website. Tennis players have been losing their tennis courts to cities and clubs which are replacing tennis courts with pickleball courts, or by painting distracting and frustrating extra lines on them. THIS ISN'T FAIR!!! Build more tennis courts, and stop letting pickleballers play on them. You're hurting tennis players. While pickleball can be played on a tennis court, tennis can't be played on a pickleball court, so it's so unfair that tennis courts are being taken away all over the country just because this game suddenly became popular. It will die out soon enough and then you'll regret spending money on pickle courts. Build tennis courts. We are tired of pickleball taking over our REAL sport.	8/14/2024 9:28 PM
15	It's always a joy to see some native vegetation preserved and an emphasis on nature, trees, and wild things, rather than fake manicured lawns, metal structures, and concrete. Mental health is more important than ever, and I look forward to the day when cites provide us with beautiful & wild places to have picnics with friends, rather than a blank expanse of manicured lawn that no one lingers in without a purpose.	8/14/2024 8:25 PM
16	Zip lines, engaging for ALL ages. Actual slides, swings	8/14/2024 8:17 PM
17	The Don Biddle park has become one of our favorites. The mix of wild and maintained greenery and variety of elevation give it a lot of interest and makes you easily forget that it's located along a busy road. Additionally, having a lot of spaced out grass areas for different uses and lots of trees along the pathways are really great features. I really hope the future Francis Ranch parks incorporate these same characteristics.	8/14/2024 7:55 PM
18	I really think a dedicated futsal court would be awesome for one of these future parks.	8/14/2024 7:34 PM

19	More shade on the playgrounds and a shaded sandbox would be so nice	8/14/2024 7:30 PM
20	More pickleball courts	8/14/2024 7:28 PM
21	Outdoor Volleyball Court (not sand) would be able to best serve the Dublin volleyball community. Additionally, with mobile volleyball nets, the court could be used for additional activities (ie fitness classes).	8/14/2024 7:21 PM
22	Shaded area for children and Adults to enjoy. Fanced Dogs park, if necessary. Children can't play freely around Dogs.	8/12/2024 12:42 PM
23	Please have the parks done first before you get the houses built by the developer. We would NOT want a situation like the current Jordan Ranch Neighborhood square where 8+years on we still DO NOT have a neighborhood park we can walk to.	8/11/2024 12:12 PM
24	We do not have a swimming pool in any of these housings. It will be great to have that option. Even with a nominal paid membership for maintenance.	8/11/2024 11:11 AM
25	Having a flag football field will bring a lot of awareness to the sport and we will be on the forefront of the movement instead of behind.	8/9/2024 12:51 AM
26	More trees, more trees and more trees that can grow into tall large trees for natural shade and natural ambience.	8/8/2024 8:42 PM
27	I'd like to see features that are unique, ideally not the same things as every other park in Dublin, they start to feel all the same and bland	8/8/2024 2:31 PM
28	Please 2 or 3 more lighted tennis courts and 4 more pickleball courts	8/8/2024 8:17 AM
29	City sports are highly constrained and need consideration for installation of more fascilities for baseball, softball and soccer	8/7/2024 5:38 PM
30	Bathroom at the park would be nice	8/6/2024 4:28 AM
31	Please Make monkey Bars	8/5/2024 9:49 PM
32	Pool	8/5/2024 9:41 PM
33	Please no more pickleball, we need more dedicated tennis courts in Dublin	8/5/2024 9:34 PM
34	I can't stress the need for greenery and trees enough. Trees should provide a nice shady walk or rest area. A grove of trees, NOT the spindly Dublin trees that the City calls trees. BIG trees in clusters on the south side.	8/5/2024 12:58 PM
35	Please have more shade	8/3/2024 7:43 PM
36	Wider sidewalks so us wheelchair users don’t have to crush each other while going to opposite different directions. Toilets should be in each ends so that children don’t have to run from one end to the other for their potty time Create more accessible play areas play things it will make all welcome . Planting trees is very important for healthy and natural shades	8/3/2024 12:11 PM
37	Please think of a way to provide shade for play structures. It gets so hot in the tri valley area and play structures are not usable under the extreme heat without shade. (For ex. Don biddle park playground)	8/3/2024 10:08 AM
38	The play area should have a canopy to protect kids from sun and to mitigate excessive temperatures of the play structures.	8/3/2024 9:57 AM
39	It would be great to have an area with signs up showing the animals that live in the area for children/adults to learn about. I would love to have an area with bricks or similar that Dublin residents could purchase as a fundraiser for community enrichment programs.	8/3/2024 8:53 AM
40	Bike racks	8/3/2024 7:24 AM
41	More grass and trees	8/2/2024 8:42 PM
42	Fitness equipment can also include a lot of heights for pull-ups/pushups/ assistance with bodyweight workouts	8/2/2024 7:05 PM
43	Please make it a much greater priority to keep restrooms clean daily at future Francis Ranch parks in addition to all our many parks throughout City of Dublin. Thank you.	8/2/2024 5:28 PM

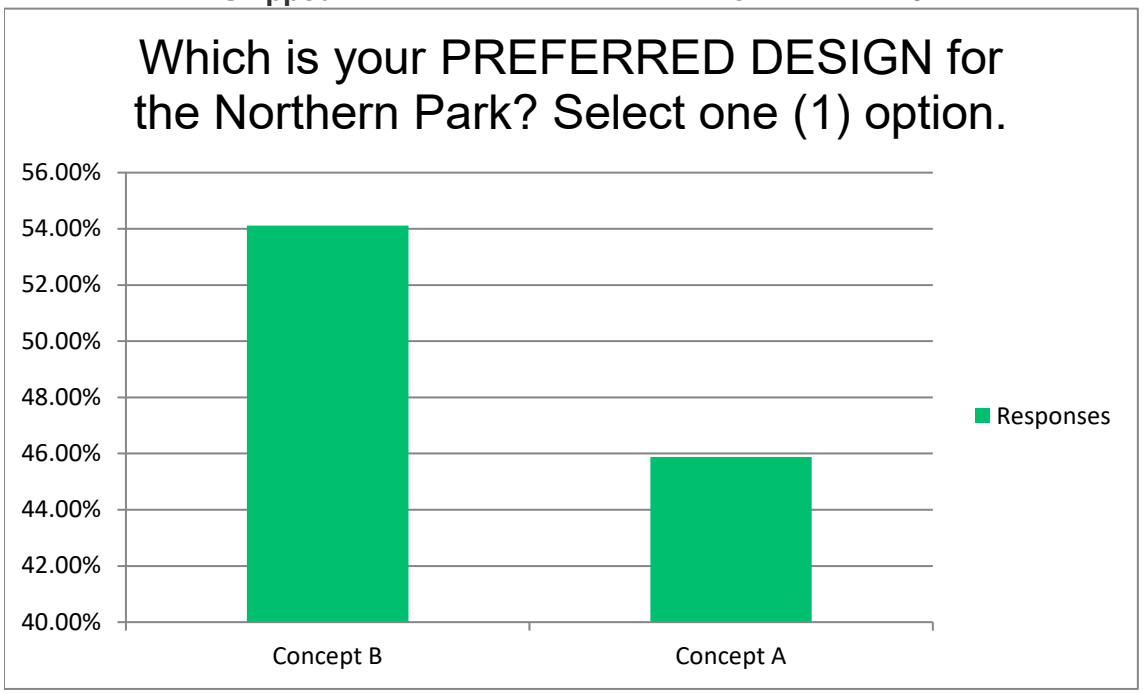
44	Shade is critical- size the structure so the tables actually receive shade and parents supervising children have a shade. Digital working area for parents- Power outlets and Wifi. Maintainable landscape for the City that doesn't die and never gets replaced. minimize unused lawn areas. Dog park that is NOT on a crazy slope like Dougherty Dog Park. Big embankment slides like Junipero Serra Park, Codornices Park, Seward Park, etc.. Older kids like action. No post / platform standard off the shelf play equipment. Sand/ Water play - https://www.richter-spielgeraete.de/ , Goric, etc... the cool stuff.	8/2/2024 3:24 PM
45	Add a plaque stating the history the ground in which you are standing.	8/2/2024 3:11 PM
46	Please please please have significant amounts of shade beyond only picnic tables under some light shade. Lots of trees （they have shade)	8/2/2024 1:57 PM
47	n/a	8/2/2024 1:32 PM
48	Please please add shade and seating. Many of us would use our parks more if there was more legitimate shade and seating for the adults. It is physically uncomfortable to be at many/most of the Dublin parks	8/2/2024 11:22 AM
49	It would be nice to have historical information panels on site to explain Dublin's agricultural (and this area's) past.	8/2/2024 11:11 AM
50	NA	8/2/2024 11:10 AM
51	We need park near Dublin Heritage park, there is no walkable park near by that have play structure	8/2/2024 10:48 AM
52	Community garden?	8/2/2024 10:41 AM
53	Please, please include a 90' baseball field on one of the parks. We currently only have one in the city.	8/2/2024 10:21 AM
54	it would be so relaxing if our town had an area where they had little boat rides on a little river. not for swimming like a lazy river, but just to ride for fun. maybe some restaurants near by you could ride to, and lit up at night.	8/2/2024 10:19 AM
55	I love the development of so many neighborhood parks in Dublin and look forward to visiting these new parks with my kids. We love spending time outdoors and we really need better shaded areas so kids’ sensitive skin can get a break from the hot summer sun in the area. A strongly shaded area would be beneficial to many users of the parks! Consider shade structures like the one over the picnic area at Big Trees Park in Livermore. Not the flimsy triangle shades that don’t provide enough UV protection	8/2/2024 10:09 AM
56	MCE and Public Works department are doing an incredible job and deserve alot more credit!	8/2/2024 8:43 AM
57	I am a current highschooler at the new and upcoming Emerald High School! It is amazing that dublin is thinking of adding more parks to east dub! One suggestion, I and a lot of my friends and people we know around us love biking, ebiking/mountainbiking and going on road and off road trails— if there is an addition you can do to do the park like a mini trail (not really dirt trail) it would be amazing! Also, I would love to have seperate pickleball AND tennis ball courts!!	8/2/2024 4:03 AM
58	Would be amazing if the playground had the swing sets that allowed parents to swing with their child (parent on one end, child on other)	8/2/2024 12:05 AM
59	Perhaps expanding the Farmer's market to the future Francis Ranch Parks will ease the congestion at Emerald Glen Park now, and also allowing residents of Dublin East area (Francis Ranch included) another option for Farmer's market.	8/1/2024 10:27 PM
60	Install shade on the play ground is a must.	8/1/2024 9:49 PM
61	Adult and child swing.	8/1/2024 8:54 PM
62	Lake	8/1/2024 7:15 PM
63	More tree variety would be nice. Willows, cherry blossoms, etc	8/1/2024 6:51 PM
64	I am looking forward to see some indoor sports, such as badminton, ping pong, racket ball, indoor rock climbing, indoor pool and a gym. I’m also looking forward to see a big/small dog park and mini golf. Something unique. Also I would like to see some unique trees, such as cherry blossoms or seasonal fruit trees, so we can have some interesting festivals and parades. Thank you.	8/1/2024 6:37 PM

65	Hope tennis courts have lights	8/1/2024 6:27 PM
66	Please include a parent and child swing like the one at Imagine Playground. Burke equipment is wonderful and durable.	8/1/2024 5:46 PM
67	Lots of shade spots for the summer time.	8/1/2024 5:09 PM
68	I used to live in Irvine and LOVED the Bill Barber Memorial Park. The garden was beautiful in the spring and summer, I would love to see something similar with wisterias for our parks here. They also had picnic shelters which I saw constantly rented out for parties on the weekends when I walked my dog around the park. It was such a lively and well rounded park that could be a great inspiration.	8/1/2024 5:00 PM
69	Please add plenty of shaded areas	8/1/2024 4:22 PM
70	Please make upscale park with amenities for both children and adults.	8/1/2024 3:23 PM
71	Dedicated and covered pickleball courts is the need of the times.	8/1/2024 12:02 PM
72	Ziplines	8/1/2024 11:51 AM

The Parks at Francis Ranch Design Survey

Which is your PREFERRED DESIGN for the Northern Park? Select one (1) option.

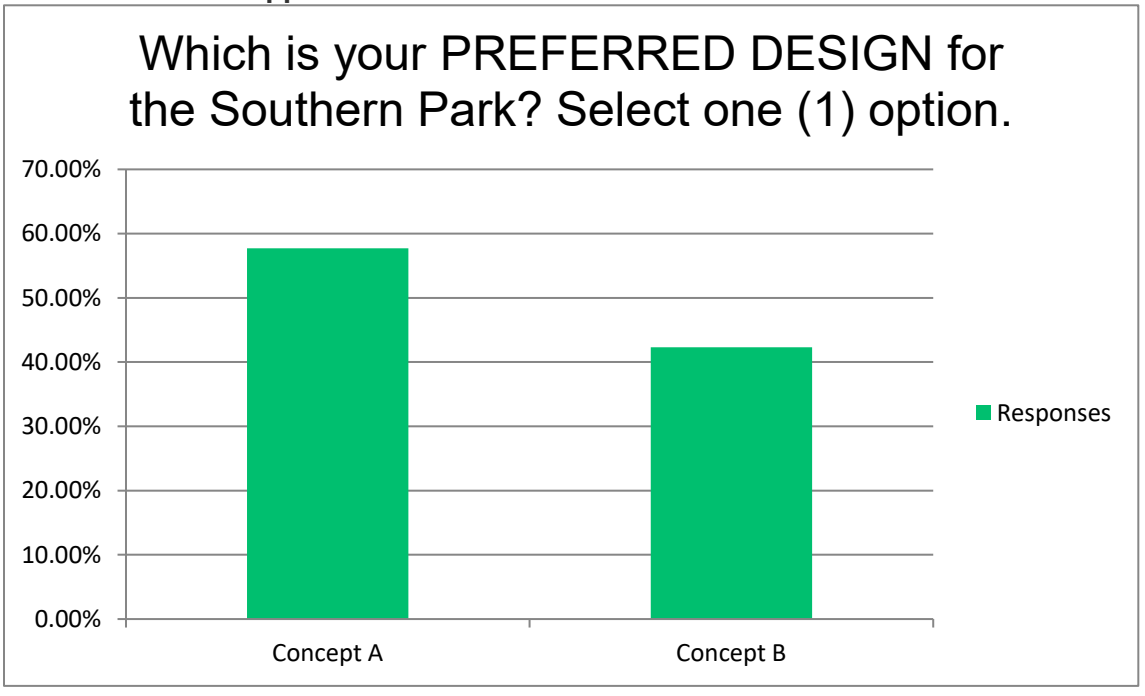
Answer Choices	Responses	Pop-Up	Survey	TOTAL
Concept B	54.12%	87	97	**184**
Concept A	45.88%	88	68	**156**
	Answered	175	165	**340**
	Skipped		8	**8**



The Parks at Francis Ranch Design Survey

Which is your PREFERRED DESIGN for the Southern Park? Select one (1) option.

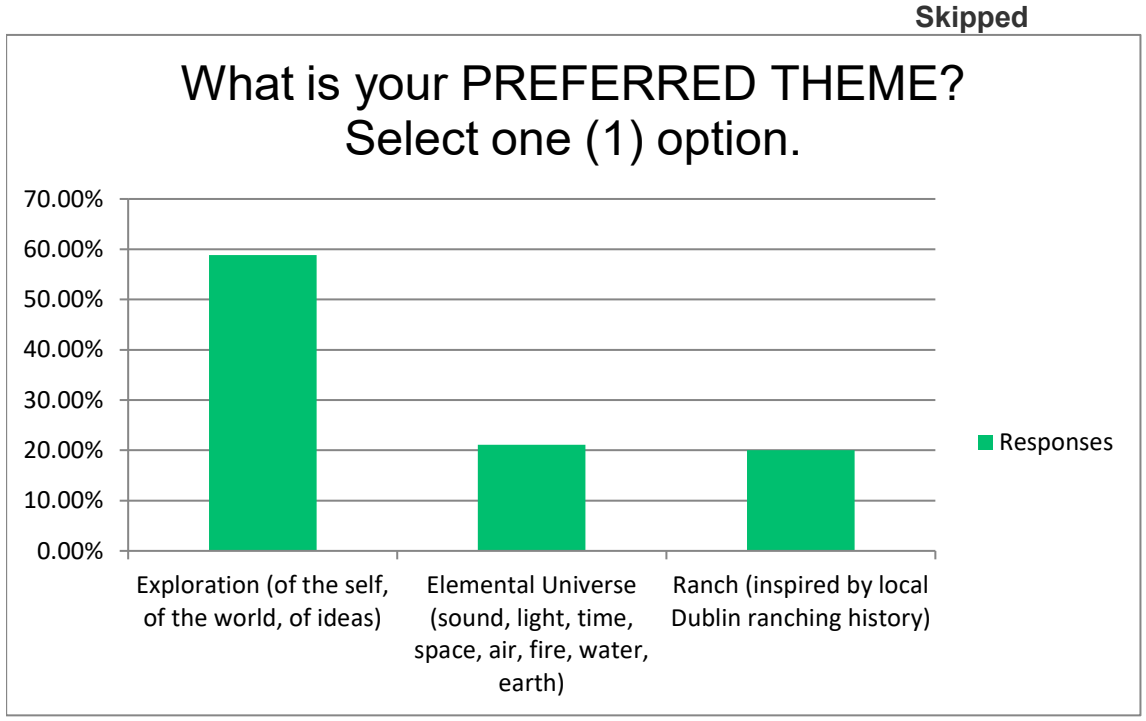
Answer Choices	Responses	Pop Up	Survey	TOTAL
Concept A	57.69%	88	107	**195**
Concept B	42.31%	87	56	**143**
	Answered	175	163	**338**
	Skipped		10	**10**



The Parks at Francis Ranch Design Survey

What is your PREFERRED THEME? Select one (1) option.

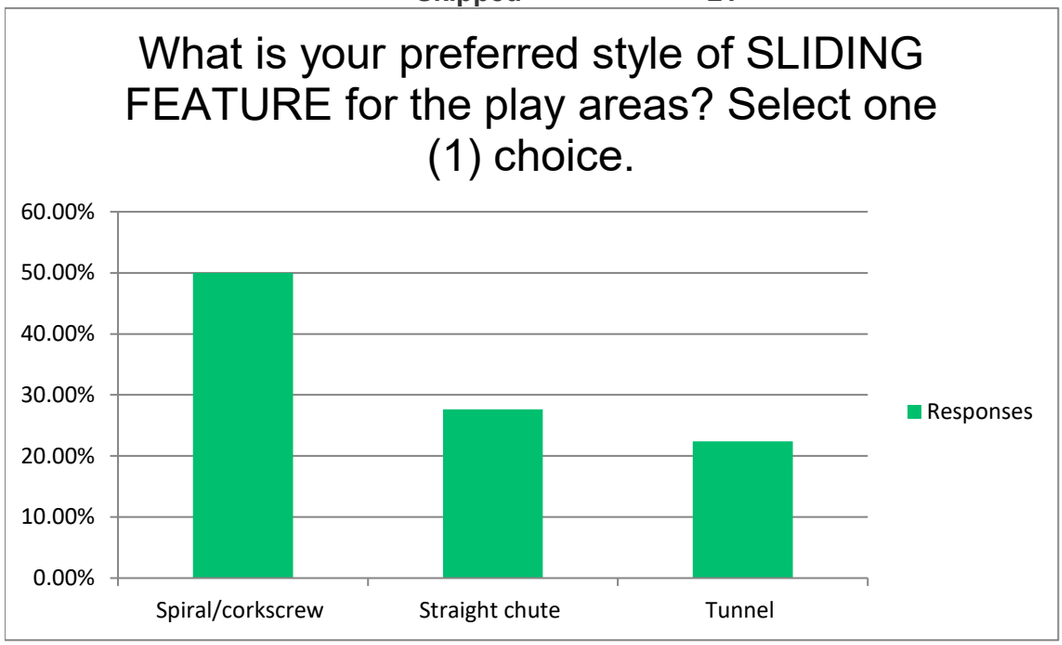
Answer Choices	Responses	Pop Up	Survey	TOTAL
Exploration (of the self, of the world, of ideas)	58.86%	126	80	**206**
Elemental Universe (sound, light, time, space, air, fire, water, earth)	21.14%	36	38	**74**
Ranch (inspired by local Dublin ranching history)	20.00%	23	47	**70**
	Answered	185	165	**350**
	Skipped		8	**8**



The Parks at Francis Ranch Design Survey

What is your preferred style of SLIDING FEATURE for the play areas? Select one (1) choice.

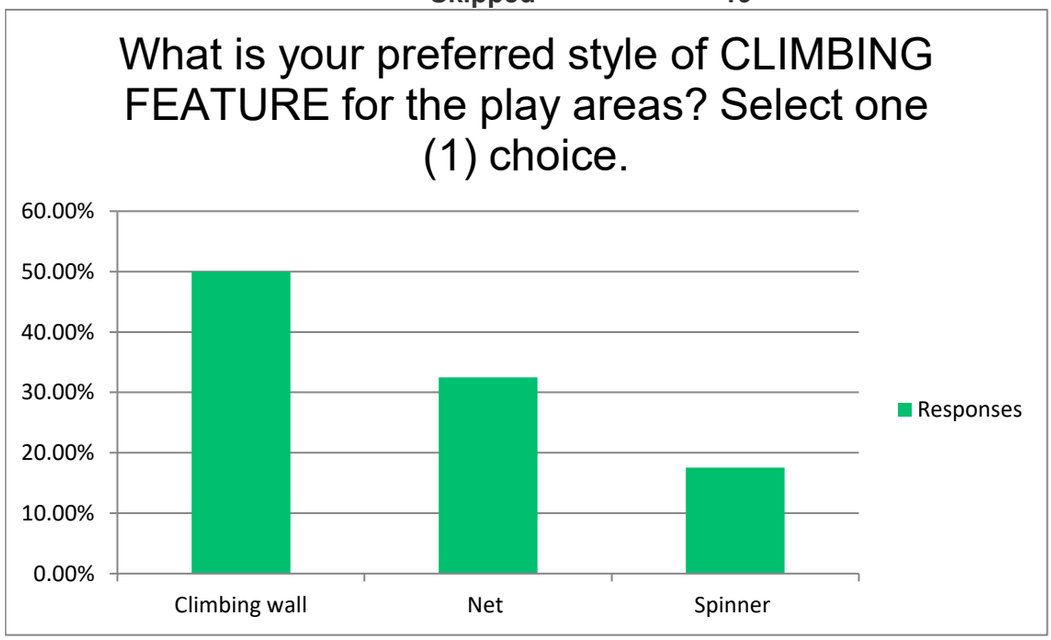
Answer Choices	Responses	
Spiral/corkscrew	50.00%	76
Straight chute	27.63%	42
Tunnel	22.37%	34
	Answered	**152**
	Skipped	**21**



The Parks at Francis Ranch Design Survey

What is your preferred style of CLIMBING FEATURE for the play areas? Select one (1) choice.

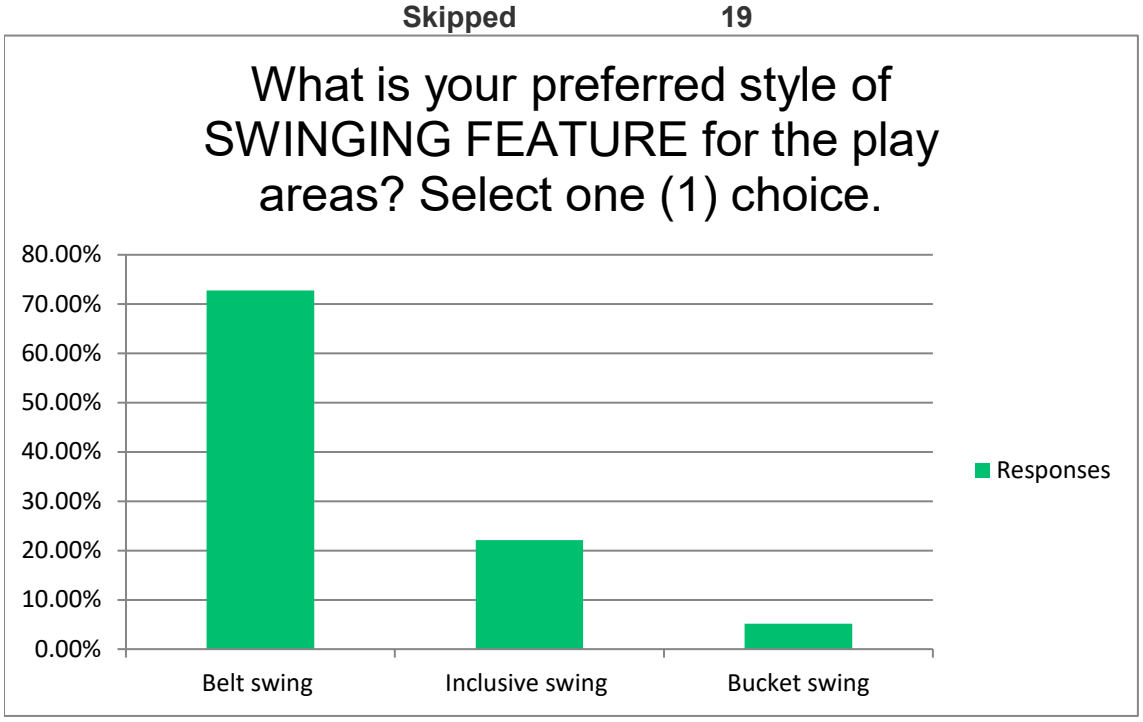
Answer Choices	Responses	
Climbing wall	50.00%	77
Net	32.47%	50
Spinner	17.53%	27
	Answered	**154**
	Skipped	**19**



The Parks at Francis Ranch Design Survey

What is your preferred style of SWINGING FEATURE for the play areas? Select one (1) choice.

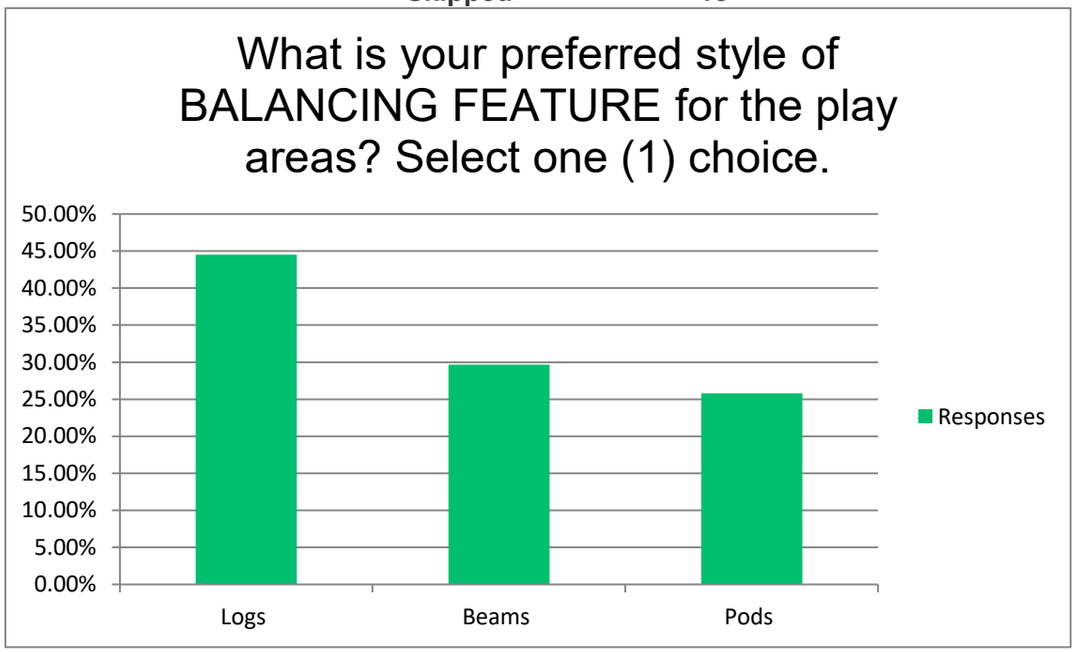
Answer Choices	Responses	
Belt swing	72.73%	112
Inclusive swing	22.08%	34
Bucket swing	5.19%	8
	Answered	**154**
	Skipped	**19**



The Parks at Francis Ranch Design Survey

What is your preferred style of BALANCING FEATURE for the play areas? Select one (1) choice.

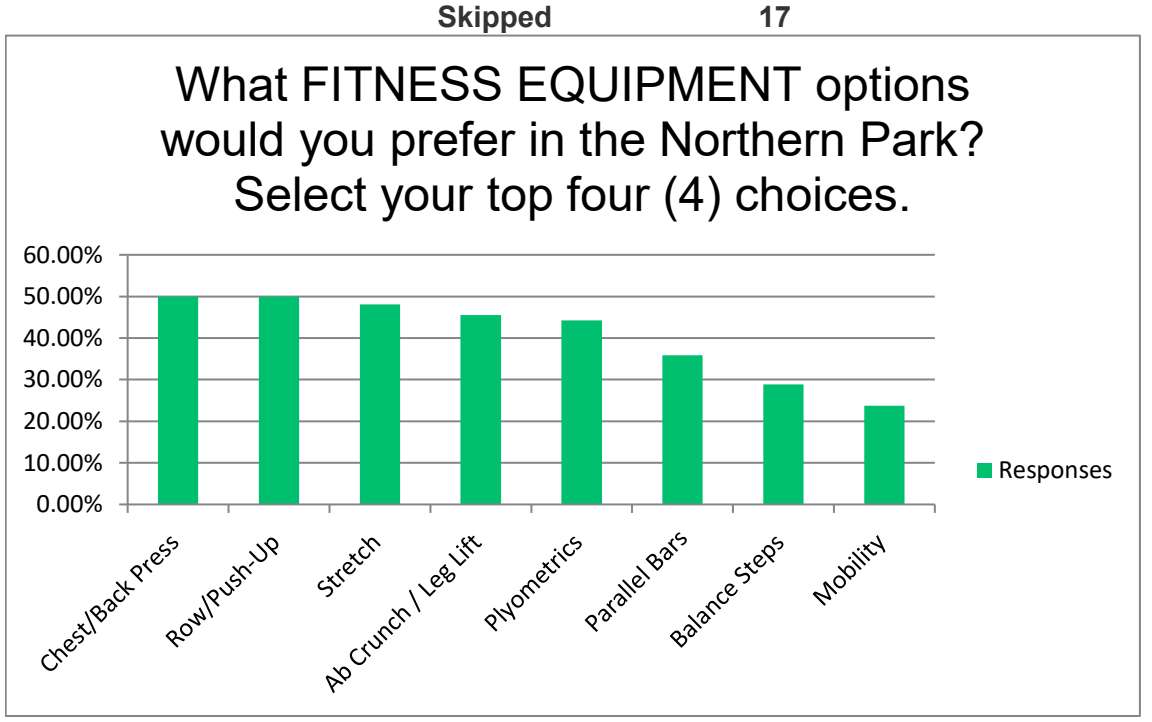
Answer Choices	Responses	
Logs	44.52%	69
Beams	29.68%	46
Pods	25.81%	40
	Answered	**155**
	Skipped	**18**



The Parks at Francis Ranch Design Survey

What FITNESS EQUIPMENT options would you prefer in the Northern Park? Select your top four (4) choices.

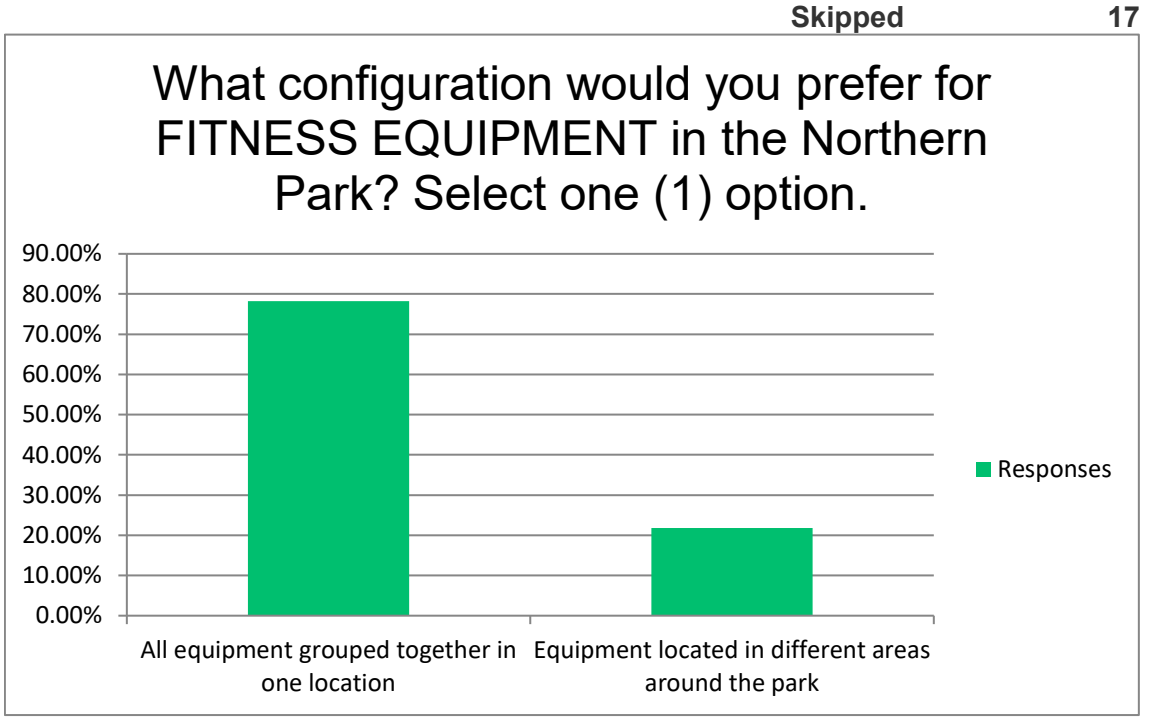
Answer Choices	Responses	
Chest/Back Press	50.00%	78
Row/Push-Up	50.00%	78
Stretch	48.08%	75
Ab Crunch / Leg Lift	45.51%	71
Plyometrics	44.23%	69
Parallel Bars	35.90%	56
Balance Steps	28.85%	45
Mobility	23.72%	37
	Answered	**156**
	Skipped	**17**



The Parks at Francis Ranch Design Survey

What configuration would you prefer for FITNESS EQUIPMENT in the Northern Park? Select one (1) option.

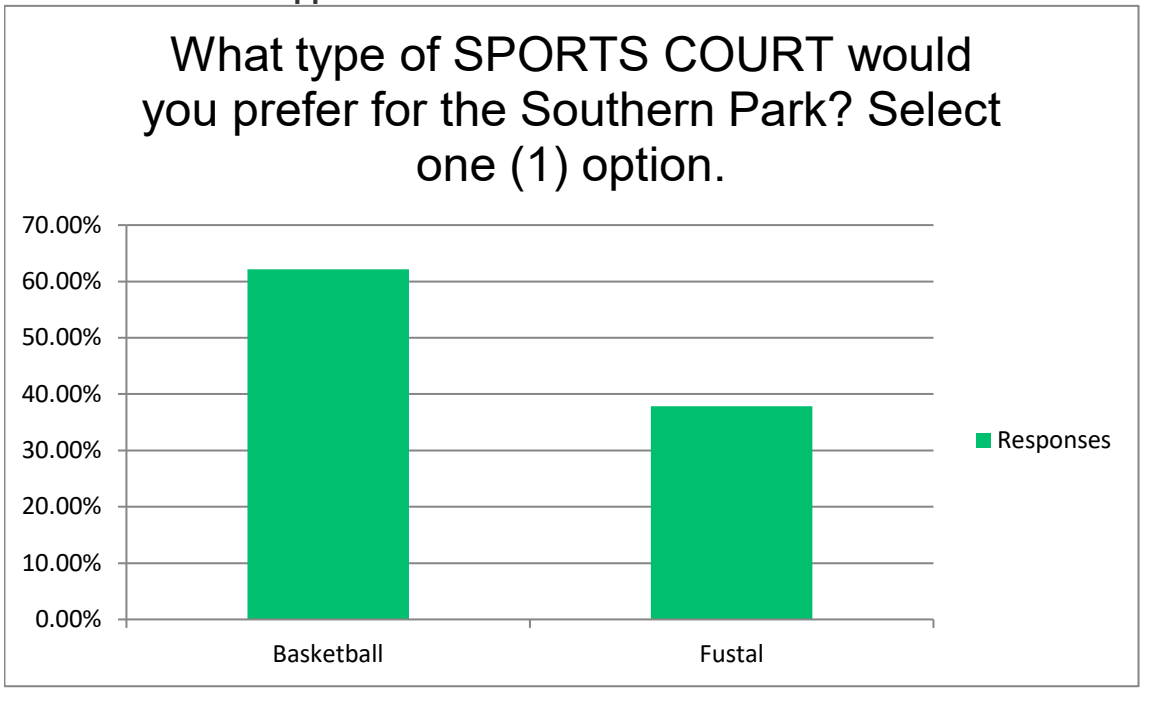
Answer Choices	Responses	
All equipment grouped together in one location	78.21%	122
Equipment located in different areas around the park	21.79%	34
	Answered	**156**
	Skipped	**17**



The Parks at Francis Ranch Design Survey

What type of SPORTS COURT would you prefer for the Southern Park? Select one (1) option.

Answer Choices	Responses	
Basketball	62.18%	97
Fustal	37.82%	59
	Answered	**156**
	Skipped	**17**



City Council Meeting

The Parks at Francis Ranch

Tuesday, December 3, 2024



DUBLIN
CALIFORNIA

Project Introduction

Location of future Francis Ranch parks in relation to other parks in Dublin.



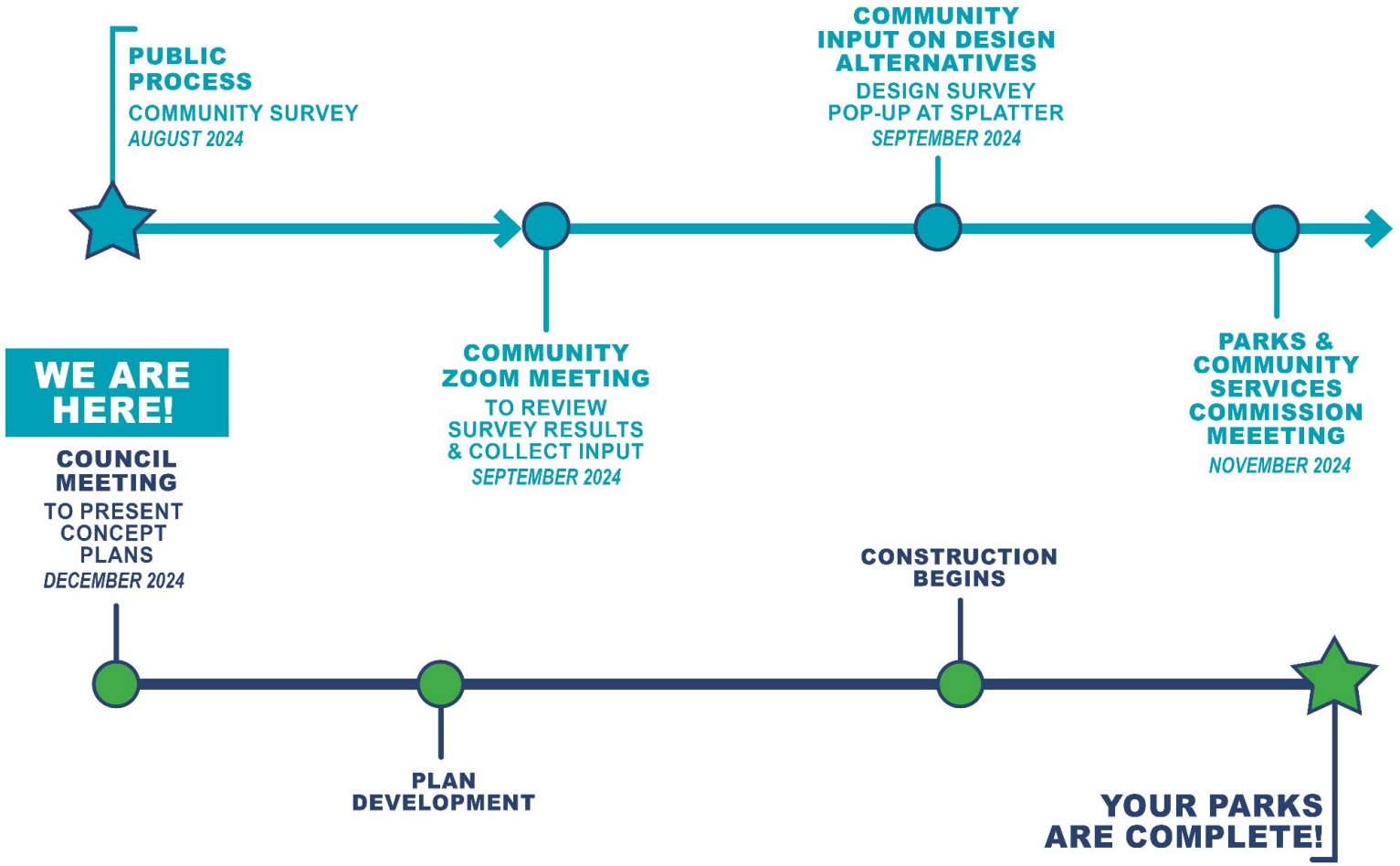
Francis Ranch

Project background

- 573 homes both Single Family Dwellings and Multi Family Units - within 6 neighborhoods
- 2 public parks
  - Developer built in partnership with City of Dublin
  - Guided by direction in the City's Parks & Recreation Master Plan
  - Northern Park - Passive focus, includes dog area, fitness equipment, play area, picnic/BBQ, restroom, shade, etc.
  - Southern Park - Active focus, includes pickleball, tennis, basketball, bocce, play area



Project Context and Timeline









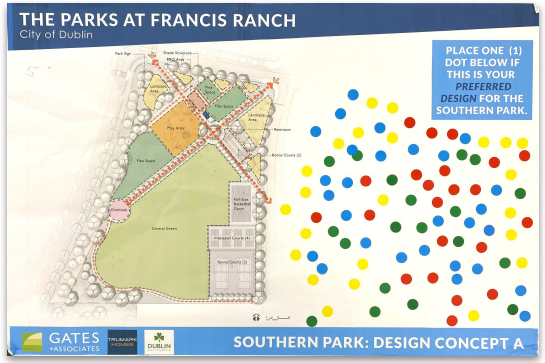
Community Outreach

ROUND 1

Online survey: August 1-16, 2024
Zoom meeting: September 4, 2024
273 total participants

What we heard:

- Top active amenity: *Play structure*
- Top passive amenity: *Walkways & trails*
- Top play feature: *Sliding*
- Top themes: *Elemental Universe & Exploration*



ROUND 2

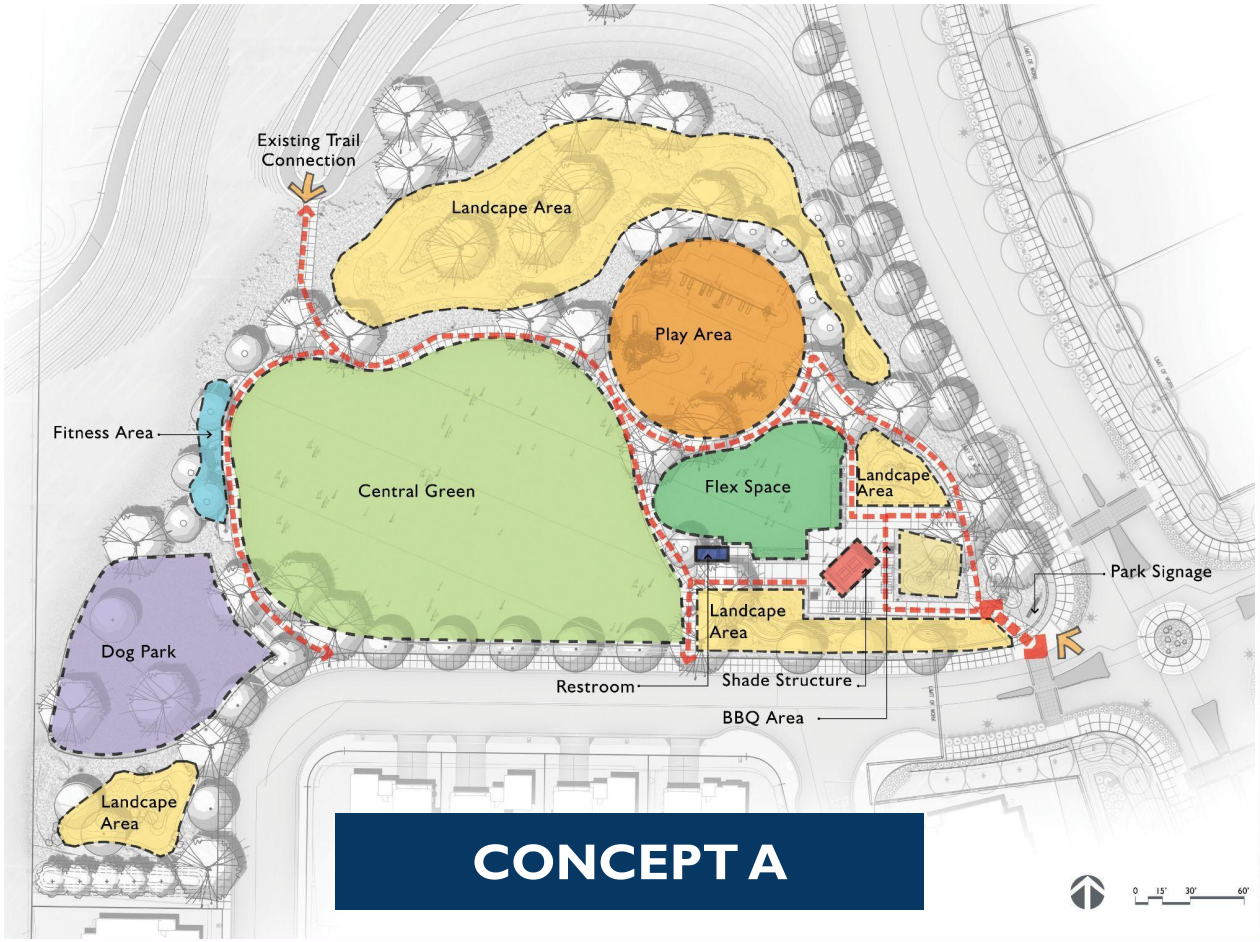
Online survey: September 13-27, 2024
Workshop at Splatter: September 14, 2024
340 total participants

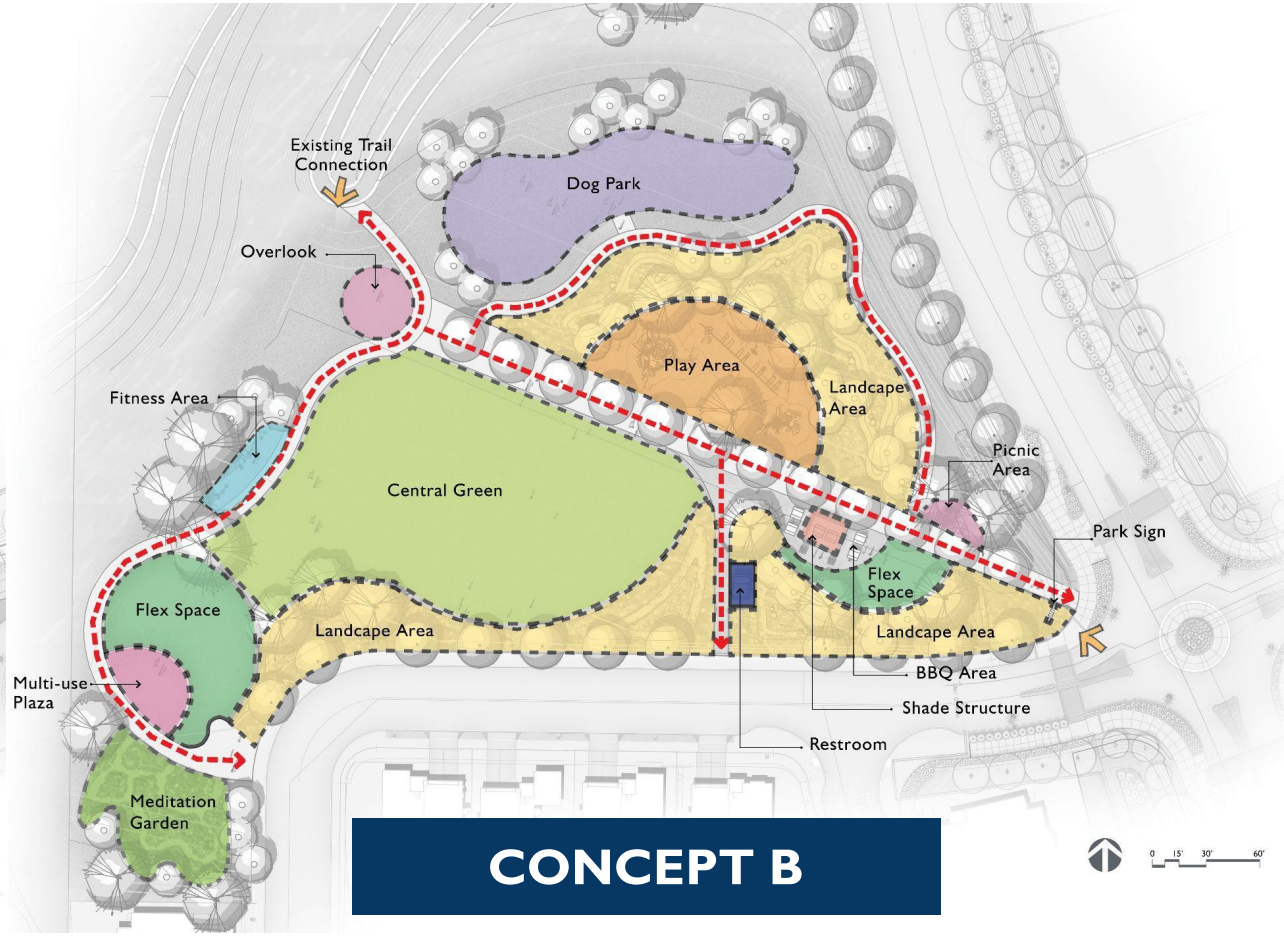
What we heard:

- Northern Park: *Concept B*
- Southern Park: *Concept A*
- Theme: *Exploration*
- Play features: *Spiral slide, climbing wall, belt swing, balancing logs*
- Fitness equipment: *Chest/back press, row/push-up. stretch & ab crunch*
- Fitness location: *Grouped together*
- Sports court: *Basketball*



Concept Alternatives: Northern Park





Concept Alternatives: Southern Park



CONCEPT A



CONCEPT B

Preferred Concept: Northern Park
Exploration of California



LEGEND

1. Play Area
2. Central Green
3. Drycreek Arroyo
4. Walkways and Trails
5. Restroom w/Drinking Fountain
6. Shade Structure
7. Shade Trees
8. Street Trees
9. Dog Park
10. Ornamental Fence
11. Connection To Fallon Village Regional Trail
12. Fitness Equipment
13. Park Sign
14. BBQ Area
15. Overlook
16. Flex Space
17. Meditation Garden
18. Picnic Area











Preferred Concept: Southern Park
Exploration of the Bay Area



LEGEND

1. Play Area
2. Central Green
3. Drycreek Arroyo
4. Walkways and Trails
5. Restroom w/Drinking Fountain
6. Shade Structure
7. Bocce Courts (2)
8. Basketball Full Size Court
9. Tennis Courts (1) + Pickleball Courts (4)
10. Pollinator Garden
11. Street Trees
12. Shade Trees
13. Park Sign
14. BBQ Area
15. Overlook
16. Flex Space
17. DG Walkway











Questions/Comments

THANK YOU!

DUBLIN CALIFORNIA

TRUMARK HOMES

GATES +ASSOCIATES