CITY COUNCIL

AGENDA
MONDAY, SEPTEMBER 9, 2024

REGULAR MEETING – 7:00 PM

MEETING PARTICIPATION INFORMATION CAN BE FOUND AT THE END OF THE AGENDA

CIVIC CENTER MEETING HALL
CITY COUNCIL CHAMBERS
1016 S. LIVERMORE AVENUE

CITY OF LIVERMORE YOUTUBE CHANNEL:
https://www.youtube.com/c/CityofLivermoreCalifornia

TV29:
Comcast TV Channel 29
tv29live.org

John P Marchand, Mayor
Robert W Carling, Vice Mayor
Ben Barrientos, Council Member
Evan Branning, Council Member
Brittni Kiick, Council Member

1. CLOSED SESSION - NONE.

2. CALL TO ORDER

ROLL CALL

Council Member Ben Barrientos
Council Member Evan Branning
Council Member Brittni Kiick
Vice Mayor Robert W. Carling
Mayor John Marchand

PLEDGE OF ALLEGIANCE

3. PROCLAMATIONS AND PRESENTATIONS - NONE.

4. OPEN FORUM

- In conformance with the Brown Act, no City Council action can occur on items presented during Open Forum.
- To provide public comment in person, please submit a speaker card. When your name is called, walk to the lectern to address City Council.
- Comments are limited to a maximum of 3 minutes per person, per item. The Mayor may reduce the amount of time based on the number of persons wishing to speak.
- Comments are limited to one comment per person per item regardless of format or time submitted (this includes email and e-comment submissions prior to the meeting as well as live comments during the meeting).
- Open Forum will conclude after 30 minutes; however, if there are additional speakers, Open Forum will reconvene before the meeting adjourns.

5. CONSENT CALENDAR

Consent Calendar items are considered routine and are acted upon by the City Council with a single action. Members of the audience wishing to provide public input must submit a speaker card found at the entrance of the Council Chambers. A speaker is limited to a single comment with a maximum of three minutes for the entire Consent Calendar. If Consent Calendar items are pulled for discussion by the City Council, a speaker will be allowed one comment per item on the items pulled for discussion and a separate comment for the remaining Consent Calendar. The one comment limit applies regardless of format or time submitted (this includes email and e-comment submissions prior to the meeting as well as live comments during the meeting).

5.1 Approval of draft minutes - July 22, 2024 Regular Meeting

Recommendation:
Staff recommends the City Council approve the draft minutes.

Staff Report
Attachments:
1. DRAFT 2024-07-22

5.2 Adoption of two ordinances implementing the Isabel Crossing project, approving Development Code Amendment (DCA) 24-001 and Development Agreement (DA) 22-001.

Recommendation:
Staff recommends the City Council take the following actions:

1. **Adopt an ordinance** approving Development Code Amendment (DCA) 24-001, for the Isabel Crossing Project, that would amend the alternative means of compliance and affordability requirements in Livermore Development Code Section 10.06.050; and
2. **Adopt an ordinanc**e approving Development Agreement (DA) 22-001 with Isabel Portola Owner LLC, for the Isabel Crossing Project, that would vest development rights for 20 years, provide financial certainty for the applicant, and secure a range of community benefits for the City of Livermore.

Staff Report
Attachments:
1. Ordinance - Development Code Amendment
2. Exhibit A - PC Development Code Amendment Resolution
3. Exhibit B - Livermore Development Code Text Amendment
4. Ordinance - Development Agreement
5. Exhibit A - PC Development Agreement Resolution
6. Exhibit B - Development Agreement

5.3 Introduce an ordinance and waive the first reading revising Municipal Code Chapter 1.28 related to the Conflict of Interest Code - Biennial Notice to revise reporting categories and add or remove positions as appropriate.

Recommendation:
Staff recommends the City Council accept the 2024 Local Agency Biennial Notice, **introduce an ordinance,** and waive the first reading revising Municipal Code Chapter 1.28, Conflict of Interest Code, to revise reporting categories and add or remove positions to align with updates to the City's salary schedule.

Staff Report
Attachments:
1. 2024 Local Agency Biennial Notice
2. Redlined 2024 Conflict of Interest Code
3. Ordinance
4. Exhibit A - Appendix A

5.4 Resolution authorizing the City Manager to execute a fourth amendment to the agreement with Swaim Biological, Inc. for on-call environmental support services, for the City's Stream Maintenance Program and other projects, until December 31, 2025, increasing the not-to-exceed agreement amount from $1,200,000 to $1,450,000.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a fourth amendment to the agreement with Swaim Biological, Inc. for on-call environmental support services, for the City's Stream Maintenance Program and other projects until

December 31, 2025, increasing the not-to-exceed agreement amount from $1,200,000 to $1,450,000.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Fourth Amendment

5.5 Resolution authorizing execution of a second amendment to the agreement with HMH Engineers for on-call engineering services, increasing the not-to-exceed agreement amount from $1,200,000 to $1,800,000, and extending the term of the agreement to December 31, 2027 to continue to provide engineering services for various capital improvements program projects, including, but not limited to, the Street Resurfacing 2022 Project 2022-01, the Arroyo Rd Trail T-13 Segment B Project 2019-55, and the Vasco Widening Project 2018-37.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a second amendment to the agreement with HMH Engineers for on-call engineering services, increasing the not-to-exceed agreement amount from $1,200,000 to $1,800,000, and extending the term of the agreement to December 31, 2027 to continue to provide engineering services for various capital improvements program projects, including, but not limited to, the Street Resurfacing 2022 Project 2022-01, the Arroyo Rd Trail T-13 Segment B Project 2019-55, and the Vasco Widening Project 2018-37.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Second Amendment

5.6 Resolution authorizing execution of the first amendment to the agreement with 4 LEAF, Inc. increasing the not-to-exceed amount from $546,000 to $1,221,000 and extending the term of the agreement from June 30, 2025 to December 31, 2026, to provide continuous construction inspection and administration services for the Water Reclamation Plant (WRP) Primary and Secondary Treatment Improvement Project 2019-31 and the WRP UV Treatment System Replacement Project 2021-28 and as needed on-call construction inspection services.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a first amendment to the engineering services agreement with 4 LEAF, Inc. increasing the not-to-exceed amount from $546,000 to $1,221,000 and extending the term of the agreement from June 30, 2025 to December 31, 2026, to provide continuous construction inspection and administration services for the Water Reclamation Plant (WRP) Primary and Secondary Treatment Improvement Project 2019-31 and the WRP UV Treatment System Replacement Project 2021-28 and as needed on-call construction inspection services.

Staff Report
Attachments:
1. Site Plan

2. Resolution
3. Exhibit A - First Amendment

5.7 Resolution authorizing execution of an agreement with HMH Engineers, in an amount not-to-exceed $361,000 and a term ending December 31, 2026, to provide engineering services for Portola Avenue Slide Repair Project S202300P, Subtask S230042C, Federal Project No. ER-15J7(107).

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an agreement with HMH Engineers, in an amount not-to-exceed $361,000 and a term ending December 31, 2026, to provide engineering services for Portola Avenue Slide Repair Project S202300P, Subtask S230042C, Federal Project No. ER-15J7(107).

Staff Report
Attachments:
1. Location Map
2. Resolution
3. Exhibit A - Agreement

5.8 Resolution approving Final Tract Map 8689 Arroyo Vista (Phase 2), authorizing execution of a Subdivision Improvement Agreement for the Arroyo Vista Project located on the east side of the Arroyo Seco Channel along Las Positas Road, and accepting on behalf of the public all real property offered for dedication within Final Tract Map 8689 except for certain easements which Council reserves the right to accept at a future date.

Recommendation:
Staff recommends the City Council adopt a resolution:
1. Finding that the requirements of the California Environmental Quality Act have been satisfied,
2. Approving Final Tract Map 8689 for recording,
3. Approving and authorizing execution of the Subdivision Improvement Agreement for Tract 8689 which includes a 12-month extension (24 months in total) to complete the required improvements, and
4. Accepting, on behalf of the public, all real property offered for dedication within Final Tract Map 8689 in conformance with the terms of the offer, except for the following: Public Utility Easement (P.U.E), Public Water Line Easement (W.L.E), and Public Sanitary Sewer Easement (S.S.E.), Parcel V (Fontana Street, Dolcetto Loop and Tarrango Street), Las Positas Road and Bennett Drive Street Dedications, and Emergency Vehicle Access Easement (E.V.A.E.) which the Council rejects at this time, reserving the right to accept the offer at a future date.

Staff Report
Attachments:
1. Vicinity Map
2. Resolution
3. Exhibit A - Final Tract Map 8689
4. Exhibit B - Subdivision Improvement Agreement

5.9 Resolution approving a request to the Metropolitan Transportation Commission for the allocation of $436,280 from FY 2024-25 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding to the Livermore Arroyo Road Trail Project 2019-55.

Recommendation:
Staff recommends the City Council adopt a resolution approving a request to the Metropolitan Transportation Commission (MTC) for the allocation of $436,280 from FY 2024-25 Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funding to the Livermore Arroyo Road Trail Project 2019-55.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - TDA Article 3 Project Application Findings
3. Exhibit B - TDA Article 3 Project Application Form and Attachments

5.10 Resolution authorizing execution of lease agreements with New Cingular Wireless PCS, LLC for the construction and maintenance of telecommunications facilities on City property located at 2705 Ames Street and 3663 Pacific Avenue.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute lease agreements with New Cingular Wireless PCS, LLC for the construction and maintenance of wireless telecommunications facilities on City property located at 2705 Ames Street and 3663 Pacific Avenue.

Staff Report
Attachments:
1. Location Map 2705 Ames Street
2. Location Map 3663 Pacific Ave
3. Resolution
4. Exhibit A - Lease Agreement 2705 Ames Street
5. Exhibit B - Lease Agreement 3663 Pacific Avenue

5.11 Resolution authorizing supplemental appropriations of carry-over budgets, $41,332 from the Traffic Impact Fee Fund 510 and $25,278 from the Park Fee - AB 1600 Fund 512, to complete the Traffic Impact Fee and Park Facility Fee Nexus Studies.

Recommendation:
Staff recommends City Council adopt a resolution authorizing supplemental appropriations of carry-forward budgets, $41,332 from the Traffic Impact Fee Fund 510 to the FY 2024-25 engineering operating budget to complete the Traffic Impact Fee Nexus Study and $25,278 from the Park Fee - AB 1600 Fund 512, to the FY 2024-25 engineering operating budget to complete the Park Facility Fee Nexus Study.

Staff Report
Attachments:
1. Resolution

5.12 Resolution authorizing the execution of a second amendment to the Standard Services Agreement with the County of Alameda for Tri-Valley Shelter Programs operating subsidies to extend the term through June 30, 2025.

Recommendation:
Staff recommends the City Council adopt a resolution:

1. Authorizing the City Manager, or her designee, to execute the Second Amendment to the Standard Services Agreement with the County of Alameda, attached hereto as Exhibit A, to extend the term of the Standard Services Agreement through June 30, 2025.
2. Authorizing the City Manager, or her designee, to execute all subsequent amendments to the Standard Services Agreement with the County of Alameda that extend the term of the Standard Services Agreement beyond June 30, 2025, so that the City and subrecipients may expend remaining HHAP funds.
3. Authorizing the City Manager, or her designee, to sign all documents related to the execution of grant agreements and, as appropriate, amended grant agreements with agencies receiving allocations of HHAP Rounds 3 and 4 funds from the City of Livermore, including agreements and amended agreements with agencies in amounts exceeding $200,000, consistent with the requirements of the Standard Services Agreement and all amendments thereto.
4. Authorizing the City Manager, or her designee, to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement attached hereto as Exhibit A.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Second Amendment

5.13 Resolution authorizing the execution of an Inter-Governmental Collaboration Agreement with the County of Alameda and Alameda County Cities and Housing Authorities for the completion of the Assessment of Fair Housing. The total agreement amount is $86,885 and the City's share of the agreement cost is approximately $2,000.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the execution an Inter-Governmental Collaboration Agreement with the County of Alameda and Alameda County Cities and Housing Authorities for the completion of the Assessment of Fair Housing. The total agreement amount is $86,885 and the City's share of the agreement cost is approximately $2,000.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Agreement

5.14 Resolution authorizing the submission of an application to the State of California Housing and Community Development Department's Local Housing Trust Fund (LHTF) Program in an

amount not-to-exceed $5,000,000 for development phase 2 of the Pacific Avenue Senior Apartments, execution of an agreement with the State of California, and certification for expenditure of funds.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing:

1. If City (the “Applicant) receives an award of LHTF funds from the Department pursuant to the Notice of Funding Availability (“NOFA”) dated July 9, 2024 under the LHTF Program, 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”);
2. The City of Livermore Affordable Housing Trust Fund to act as the manager or trustee (as applicable) in connection with the Department's funds to Eligible Projects pursuant to the NOFA in an amount not to exceed $5,000,000 (the "LHTF Award"), including administrative costs, pursuant to Section 105(b) of the LHTF Program Guidelines;
3. Agreement to match on a dollar-for-dollar basis the LHTF Award pursuant to Guidelines Section 104. Applicant hereby agrees to utilize matching funds 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);
4. Pursuant to Exhibit A of the Resolution, the LHTF funds will be expended only for Eligible Projects and consistent with all program requirements.
5. Applicant shall be subject to the terms and conditions as specified in the Standard Agreement, H&S Section 50842.2 et seq. and LHTF Program Guidelines;
6. The City Manager, or her 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,
7. The City Manager, or her designee, to issue a Letter(s) of Intent, as defined by the State, to Eligible Projects to provide funding if awarded by the State.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - Summary of Local Housing Trust Fund Projects

5.15 Resolution authorizing the issuance of a purchase order for three replacement Chevrolet Police Patrol Vehicles from Winner Chevrolet in an amount not-to-exceed $220,707.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing issuance of a purchase order to Winner Chevrolet in Sacramento, California for the purchase of three replacement Chevrolet Police Patrol Vehicles under Statewide Contract #1-22-23-23D for a not-to-exceed amount of $220,707.

Staff Report
Attachments:

1. Winner Chevrolet Statewide Contract
2. Winner Chevrolet Quote
3. Resolution

5.16 Resolution terminating local emergency in response to impacts from a series of severe storm events last year.

Recommendation:
Staff recommends the City Council adopt a resolution terminating local emergency in response to impacts from a series of severe storm events last year.

Staff Report
Attachments:
1. Resolution

6. PUBLIC HEARINGS

Comments are limited to one comment per person per item regardless of format or time submitted (this includes email and e-comment submissions prior to the meeting as well as live comments during the meeting).

6.1 Hearing to receive and consider protests related to the annual fire hazard abatement program and confirm the 2024 Weed Abatement Program assessments for collection on the County Assessor tax roll.

Recommendation:
Staff recommends City Council consider all protests, and if Council finds appropriate, adopt a resolution overruling protests and confirming the 2024 weed abatement assessments and direct staff to file a certified copy of the assessment report with the County Auditor.

Staff Report
Attachments:
1. Resolution
2. Exhibit A - 2024 Weed Abatement Assessments

6.2 Hearing to consider a request for a Specific Plan Amendment, Planned Development, Site Plan Design Review Modification, and Development Agreement Amendment to modify the 2017 approval for the Arroyo Vista Residential Project to increase the height of the single family detached units from two stories to three stories, remove a pedestrian bridge requirement, and secure community benefits including pocket parks and a financial contribution.

Recommendation:
The Planning Commission and staff recommend the City Council:

1. Adopt a resolution certifying the 2024 Arroyo Vista Neighborhood Project Addendum to the Arroyo Vista Neighborhood Plan Initial Study Mitigated Negative Declaration [IS/MND], as amended by the 2017 Addendum for the Arroyo Vista Residential Development,
2. Adopt a resolution approving Specific Plan Amendment (SPPA) 24-002;

3. Adopt a resolution approving Site Plan Design Review Modification (SPDRM) 24-002;
4. **Introduce an ordinance** and waive the first reading authorizing execution of Planned Development Amendment (PD) 24-001; and
5. **Introduce an ordinance** and waive the first reading authorizing execution of Development Agreement Amendment (DAA) 24-001.

Staff Report
Attachments:
1. Memo - Staff Analysis - Arroyo Vista
2. Location Map
3. Planning Commission Meeting Minutes
4. Resolution - CEQA
5. Exhibit A - Planning Commission CEQA Resolution
6. Exhibit B - 2017 Addendum
7. Exhibit C - MMRP
8. Exhibit D - Arroyo Vista Addendum
9. Resolution - Specific Plan Amendments
10. Exhibit A - Planning Commission Project Approval Resolution
11. Exhibit B - Specific Plan Amendments
12. Resolution - Project
13. Exhibit A - Planning Commission Project Resolution
14. Exhibit B - Proposed Plans
15. Exhibit C - Conditions of Approval
16. Ordinance - Planned Development
17. Exhibit A - Planning Commission Project Approval Resolution
18. Exhibit B - Planned Development Text Amendment
19. Ordinance - Development Agreement Amendment
20. Exhibit A - Planning Commission Project Approval Resolution
21. Exhibit B - Development Agreement Amendment

7. MATTERS FOR CONSIDERATION

Comments are limited to one comment per person per item regardless of format or time submitted (this includes email and e-comment submissions prior to the meeting as well as live comments during the meeting).

7.1 Designation of voting delegate and alternates for the 2024 League of California Cities General Assembly.

Recommendation:
Staff recommends the City Council appoint one voting delegate and up to two alternates to represent the City of Livermore at the 2024 League of California Cities General Assembly.

Staff Report
Attachments:
1. 2024 Cal Cities Voting Delegate Information Packet

8. COUNCIL COMMITTEE REPORTS AND MATTERS INITIATED BY CITY MANAGER, CITY ATTORNEY, AND COUNCIL MEMBERS

9. ADJOURNMENT

To a Regular City Council meeting on Monday, September 23, 2024 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

10. SUPPLEMENTAL MATERIALS

10.1 Supplemental materials received prior to the meeting.

Staff Report
Attachments:
1. Supplemental Materials

11. HOW TO PARTICIPATE IN YOUR CITY COUNCIL MEETING

You can participate in the meeting in a number of ways:

Open Forum is an opportunity for the public to speak regarding items not listed on the agenda. Speakers are limited to a maximum of 3 minutes per person. To address the City Council in person, you must submit a speaker card to the City Clerk prior to the start of that item. Please note that the City Council is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the City Council may place it on a future agenda or direct staff to work with you and/or report to the City Council on the issue.

Public Hearings - The topic of the hearing is typically summarized by staff, followed by a presentation by the applicant, and questions from the City Council. The Mayor will then open the hearing to the public and offer an opportunity for public comments. Speakers are limited to a maximum of 3 minutes per person. To address the City Council in person, you must submit a speaker card to the City Clerk prior to the start of the presentation of the item.

Other Agenda Items are also open for public input including Consent Calendar or Matters for Consideration items. These comments are also subject to the 3-minute limit.

Special Meetings, Workshops - The public will have the opportunity to address the City Council regarding the item that is the subject of the special meeting or workshop. Public comments are limited to a maximum of 3 minutes per person.

Platforms to Participate in Meetings:

Submission of Comments Prior to the Meeting:

Email Comments may be submitted by the public to the City Clerk's Office (cityclerk@LivermoreCA.gov). Items received no later than 12:00 pm on the day of the meeting will be provided to the City Council and available on the City website prior to the meeting. These items will NOT be read into the record.

eComments may be submitted by the public using the eComment link here. Comments may be up to 1000 characters in length and will be accepted up until 4:00 pm the day of the meeting. These items will NOT be read into the record and are viewable by the City Council

and the public upon submittal.

Submission of Comments During the Meeting:

Speakers are limited to a maximum of 3 minutes per person. To submit a comment you must complete a speaker card for each item. Speaker cards are available in the Civic Center Meeting Hall lobby. Indicate on the card the item number you wish to comment on and submit the card directly to the City Clerk prior to the start of the item. Please note that the City Council is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the City Council may place it on a future agenda or direct staff to work with you and/or report to the City Council on the issue.

The City will be using YouTube and TV29 as two tools to provide the public access to view City Council meetings. No public comment will be accepted via YouTube.

TV29: tv29live.org Comcast Cable 29

YouTube: http://youtube.com/c/CityofLivermoreCalifornia

If you would like to deliver written materials to the City Council as part of your public comment, please provide 10 copies to the City Clerk with your speaker card.

The **City Council Agenda and Agenda Reports** are prepared by City staff and are available for public review on Tuesday evening, six days prior to the City Council meeting in the Civic Center Library, 1188 South Livermore Avenue, Livermore, and at the City Clerk's Office, 1052 South Livermore Avenue, Livermore. The Agenda is also available on the City's website, http://LivermoreCA.gov/agenda.

Under Government Code §54957.5, any **supplemental material** distributed to the members of the City Council after the posting of this agenda will be available for public review in the City Clerk's Office, 1052 South Livermore Avenue, Livermore, and included in the agenda packet available on the City's web site at http://LivermoreCA.gov/agenda.

PURSUANT TO TITLE II OF THE AMERICANS WITH DISABILITIES ACT (CODIFIED AT 42 UNITED STATES CODE SECTION 12101 AND 28 CODE OF FEDERAL REGULATIONS PART 35), AND SECTION 504 OF THE REHABILITATION ACT OF 1973, THE CITY OF LIVERMORE DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, ANCESTRY, SEX, DISABILITY, AGE OR SEXUAL ORIENTATION IN THE PROVISION OF ANY SERVICES, PROGRAMS, OR ACTIVITIES. TO ARRANGE AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PUBLIC MEETING, PLEASE CONTACT THE ADA COORDINATOR AT ADACOORDINATOR@LIVERMORECA.GOV OR CALL (925) 960-4170 (VOICE) OR (925) 960- 4104 (TDD) AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE MEETING.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.1**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Approval of draft minutes - July 22, 2024 Regular Meeting

RECOMMENDED ACTION

Staff recommends the City Council approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. DRAFT 2024-07-22

Prepared by: Debbie Elam
Acting City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

CITY COUNCIL
JULY 22, 2024

CLOSED SESSION

CALL TO ORDER – The Closed Session of the City Council was called to order by Mayor John Marchand at 6:00 pm, held in person at 1016 S. Livermore Avenue and YouTube.

ROLL CALL – Present: Mayor John Marchand, Vice Mayor Robert W. Carling, and Council Members Ben Barrientos and Evan Branning.

Absent: Council Member Kiick

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE CITY COUNCIL REGARDING CLOSED SESSION ITEMS.

Mayor Marchand opened the public comment period.

Jean King provided a comment.

There were no more speakers, and the hearing was closed.

City Attorney Jason Alcala made the following announcement: Pursuant to G/C section 54956.9(e)(2), I would like to disclose that the anticipated litigation closed session item relates to comments by Citizens for Balanced Growth at the City Council meeting on July 8, 2024, and a letter from their attorney dated July 19, 2024, that allege the City's use of Dougherty Valley Settlement Funds is illegal and a breach of the Dougherty Valley Settlement Agreement, posturing a lawsuit against the City of Livermore.

1. ADJOURN TO CLOSED SESSION

1.1 Conference with Legal Counsel - Anticipated Litigation. To meet with legal counsel pursuant to Government Code sections 54956.9(d)(2) and (e)(2) because there is significant exposure to litigation against the City based on existing facts and circumstances. (One Case.)

Facts and circumstances related to an accident, disaster, incident, or transactional occurrence that might result in litigation against the City and that are known to a potential plaintiff or plaintiffs

1.2 Conference with Legal Counsel - Existing Litigation. To meet with legal

counsel pursuant to Government Code section 54956.9(d)(1) to discuss litigation that has been formally initiated. (Two cases)

Alameda County Taxpayers' Association Inc, et al. v. Livermore, Alameda County Superior Court Case No. 23CV047436
Alameda County Taxpayers' Association Inc, et al. v. Livermore, Alameda County Superior Court Case No. 24CV058036

1.3 Conference with Real Property Negotiator. To meet with Paul Spence Assistant City Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the sale and purchase of real property at Assessor's Parcel No. 99B-5300-2-13. The City's negotiators may negotiate with Stephen Wawryk and Danielle Davenport on behalf of Western Title Insurance Company. The instructions will concern price and terms of payment.

1.4 Conference with Real Property Negotiator. To meet with Paul Spence Assistant City Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the sale and purchase of real property at Assessor's Parcel No. 903-10-1. The City's negotiators may negotiate with Stephen Wawryk and Danielle Davenport on behalf of Livermore Venture Partners LP. The instructions will concern price and terms of payment.

1.5 Conference with Real Property Negotiator. To meet with Paul Spence Assistant Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase and sale of real property at Assessor's Parcel No. 99-100-19-8. The City's negotiators may negotiate with Joe Owens and Steve Jackson, on behalf of Johnny L. Moore & Brett M. Pieretti. The instructions will concern price and terms of payment.

1.6 Conference with Real Property Negotiator. To meet with Paul Spence Assistant Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase and sale of real property at Assessor's Parcel No. 99B-5680-14. The City's negotiators may negotiate with Jim Arnold, on behalf of Jeanne Moghadam Trust. The instructions will concern price and terms of payment.

1.7 Conference with Real Property Negotiator. To meet with Paul Spence Assistant Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase and sale of real property at Assessor's Parcel Ns. 099B-5500-001-10 and 099B-5500-002-5. The City's negotiators may negotiate with real estate staff members for, and on behalf of, the San Francisco Bay Area Rapid Transit (BART) District. The instructions will concern price and terms of payment.

REGULAR MEETING

2. CALL TO ORDER – The meeting of the City Council was called to order by Mayor John Marchand at 7:02 pm, held in person at 1016 S. Livermore Avenue and YouTube.

ROLL CALL – Present: Mayor John Marchand, Vice Mayor Robert W. Carling, and Council Members Ben Barrientos and Evan Branning

Absent: Council Member Kiick

PLEDGE OF ALLEGIANCE

REPORT OF ACTION TAKEN IN CLOSED SESSION

City Attorney Jason Alcala said there was no reportable action.

3. PROCLAMATIONS AND PRESENTATIONS

3.1 Livermore Housing Authority annual update presented by Sarah Ramler, Executive Director, Livermore Housing Authority.

Sarah Ramler, Executive Director, Livermore Housing Authority provided an update.

4. OPEN FORUM

The Mayor reordered the agenda moving Open Forum after item 6.2

5. CONSENT CALENDAR

Items 5.2 and 5.23 were removed from the Consent Calendar for separate discussion and action.

Mayor Marchand opened the public comment period.

Item 5.15 Aaron Haycraft provided a comment.

Item 5.15 Cathryn Villasenor provided a comment.

Item 5.15 Alan Marling provided a comment.

Item 5.15 Tracy Heskett provided a comment.

Item 5.15 Lisa Gemberling provided a comment.

Item 5.15 Deborah Gibson provided a comment.

Item 5.15 Nancy Chrisp provided a comment.

Item 5.15 Amy Rose provided a comment.

Item 5.15 Doug and Geri Lonnberg provided a comment

Item 5.15 Greg P. provided a comment.

Item 5.15 Mel Chiong provided a comment.

Item 5.15 Caroline Powers Robinson provided a comment.

Item 5.15 Trish Munro provided a comment.

Item 5.15 Tracy Kronzak provided a comment.

Item 5.15 Marilyn Dykstra provided a comment.

Item 5.15 Judy Sheehan provided a comment.

Item 5.15 Bianca Covarelli provided a comment.

Item 5.15 Charles Henze provided a comment.

Item 5.15 Mark Thomason provided a comment.

Item 5.15 Kelle Gouveia provided a comment.

Item 5.15 Dan Pierce provided a comment.

Item 5.5 Donna Cabanne provided a comment.

Item 5.5 Jean King provided a comment.

Item 5.22 Doug Mann provided a comment.

There were no more speakers, and the public comment period was closed.

ON THE MOTION OF COUNCIL MEMBER BRANNING, SECONDED BY VICE MAYOR CARLING AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL APPROVED CONSENT CALENDAR ITEMS 5.1 AND 5.3-5.22.

ON THE MOTION OF COUNCIL MEMBER BRANNING, SECONDED BY COUNCIL MEMBER BARRIENTOS AND CARRIED ON A 3-0 VOTE, THE CITY COUNCIL APPROVED CONSENT CALENDAR ITEM 5.2. VICE MAYOR CARLING ABSTAINED DUE TO HIS ABSCENSE AT THE MEETING OF JULY 8, 2024.

ON THE MOTION OF COUNCIL MEMBER BRANNING, SECONDED BY VICE MAYOR CARLING AND CARRIED ON A 3-0 VOTE, THE CITY COUNCIL APPROVED CONSENT CALENDAR ITEM 5.23. MAYOR MARCHAND ABSTAINED DUE TO A CONFLICT OF INTEREST.

5.1 Approval of draft minutes for June 24, 2024

5.2 Approval of draft minutes for July 8, 2024

5.3 **Resolution 2024-121** dedicating a Public Utility Easement (PUE) to the public over a portion of City owned land within a portion of Stockmen's Park and authorizing the City Manager to execute the PUE to serve the designated Commercial Use Areas adjacent to Stockmen's Park.

5.4 **Resolution 2024-122** summarily vacating a portion of public right-of-way along South Livermore Avenue and authorizing execution of quitclaim deeds to accommodate the approved Blacksmith Square Expansion project.

5.5 **Resolution 2024-123** authorizing the City Manager to execute the first amendment to the Amended and Restated Disposition, Development, and Loan Agreement between the City of Livermore and 2205 Railroad Avenue LLC for a downtown hotel.

5.6 **Resolution 2024-124** authorizing the execution of an agreement with Michael Baker International, Inc. for services to support the administration of the City's Affordable First-Time Homebuyer Program and Mortgage Assistance Program in a not-to-exceed amount of $400,000, a term ending June 30, 2029, and appropriating $400,000 over five years from the Housing Trust Fund.

5.7 **Resolution 2024-125** authorizing the change of the General Partner for 2891 Carmen, L.P., owner of the Carmen Avenue Apartments from Satellite AHA Development, Inc. to ABODEHD 2891 CARMEN LLC, to streamline property management and service delivery.

5.8 **Resolution 2024-126** authorizing the execution of a second amendment to the Memorandum of Understanding between the City of Livermore, Alameda County, and Livermore Sanitation, Inc. to modify provisions of collection services to meet compliance with Senate Bill 1383 in the County Collection Zone 1 and to determine no further action under CEQA is required.

5.9 **Resolution 2024-127** authorizing the execution of agreements with GSW Construction, Inc. and Platinum Pipeline, Inc. for on-call construction services for City water, sewer, and storm drain systems for a three-year term in an amount not-to-exceed $2,400,000.

5.10 **Resolution 2024-128** awarding and authorizing the execution of an agreement with Environmental Logistics, Inc. for services to remove, clean, and dispose of hazardous and non-hazardous materials for a three-year term in an amount not-to-exceed $775,000.

5.11 Resolution 2024-129 appropriating $4,300,000 in Wastewater Enterprise Funds in FY 2024-25 for the repair and relocation of the Livermore Sole-Use Treated Wastewater Pipeline.

5.12 Resolution 2024-130 authorizing the issuance of a purchase order to Petersen Cat for a Weiler P65 Paver in an amount not-to-exceed $143,554 and an appropriating $143,554 from the Fleet Internal Service Fund to purchase the Paver.

5.13 Resolution 2024-131 authorizing execution of an agreement with NFP Retirement, Inc. for consultant services pertaining to the City's Deferred Compensation Plans in an amount not-to-exceed $208,000, and a term ending June 30, 2029.

5.14 Resolution 2024-132 authorizing the execution of an agreement with Eide Bailly, LLP for auditing services in an amount not-to-exceed $360,000 for fiscal years 2023-24 and 2024-25.

5.15 Resolution 2024-133 authorizing the execution of Project and Program Grant Agreements with Livermore Pride, Livermore Valley Opera (LVO) and Thomasin Dewhurst Fine Art consistent with the City's Public Art Policy.

5.16 Resolution 2024-134 authorizing the execution of an agreement with All City Management Services, Inc. to provide crossing guard services for a five-year term, in an amount not-to-exceed $1,516,644.

5.17 Resolution 2024-135 authorizing acceptance of funds in the amount of $64,074, for a State of California Department of Alcoholic Beverage Control grant in Fiscal Year 2024-25 and authorizing the City Manager to execute the grant agreement.

5.18 Resolution 2024-136 establishing fees for a concealed carry weapons (CCW) permit and appropriating $15,000 of the fee revenue to cover the costs to implement the CCW permit program.

5.19 Resolution 2024-137 authorizing the City Manager to execute all documents and forms for the City to participate in settlement agreements for the National Prescription Opiate Litigation.

5.20 Resolution 2024-138 rescinding Resolution 170-82 designating Tri-Valley Community Television Corporation as the official body to receive cable television funds.

5.21 Resolution 2024-139 of continued local emergency in response to impacts from a series of severe storm events last year.

5.22 Resolution 2024-140 accepting the Altamont Landfill Open Space Committee’s recommendation to expend funds in the amount of $980,000 for the

purchase of Harford Hills Property (82-acres) in Eastern Alameda County (APNS 902-9-3-1 AND 902-9-3-2).

Resolution 2024-141 finding that the acquisition of the Hartford Hills Property (82-acres – APNS 902-9-3-1 AND 902-9-3-2) is exempt from the provisions of the California Environmental Quality Act.

Resolution 2024-142 authorizing the City Manager to execute a purchase and sale agreement for the acquisition of the Hartford Hills Property (82-acres – APNS 902-9-3-1 AND 902-9-3-2)

Resolution 2024-143 authorizing from the Dougherty Valley Settlement Agreement (Fund 925) for the amount of $980,000 to acquire the Hartford Hills Property (82-acres – APNS 902-9-3-1, 902-9-3-2)

5.23 Resolution 2024-144 authorizing an agreement with Attitude Aviation Inc. for the use of airport property for equipment, materials, and vehicle storage, for a term up to five years and a Base Rental Rate of $21,582 per year.

6. PUBLIC HEARINGS

The Mayor reordered the agenda moving Public Hearings after 7.1

7. MATTERS FOR CONSIDERATION

7.1 Resolution adopting 180-day wait period exception to hire retired annuitant, Nancy Dias, former Human Resources Manager, in accordance with Government Code section 7522.56 of the Public Employees' Retirement Law.

Recommendation: Staff recommended that the City Council adopt a resolution approving the hiring of retired annuitant, Nancy Dias, former Human Resources Manager, in accordance with Government Code section 7522.56 of the Public Employees' Retirement Law.

Acting Human Resources Manager Kristen Hilton presented the staff report.

Mayor Marchand opened the public comment period.

There were no speakers, and the public comment period was closed.

ON THE MOTION OF COUNCIL MEMBER BARRIENTOS, SECONDED BY VICE MAYOR CARLING AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTION:

Resolution 2024-145 adopting a 180-day wait period exception to hire a retiree in accordance with Government Code sections 7522.56 and 21224 of the Public Employees' Retirement Law.

6. PUBLIC HEARINGS

6.1 Public Hearing to consider protests related to the non-payment of solid waste, recycling, and organics handling services provided by Livermore Sanitation for collection on the County Assessor tax roll.

Recommendation: Staff recommended the City Council hold a Public Hearing to:
1. Consider protests related to the non-payment of solid waste, recycling, and organics services;

2. Adopt a resolution overruling protests and confirm the 2022 and 2023 assessments if applicable; and,

3. Direct staff to forward a finalized copy of the assessment report to the County Tax Assessor.

Recycling Specialist Anna Zamboanga presented the staff report.

Mayor Marchand opened the public hearing.

There were no speakers, and the hearing was closed.

ON THE MOTION OF VICE MAYOR CARLING, SECONDED BY COUNCIL MEMBER BARRIENTOS AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTION:

Resolution 2024-146 considering and overruling objections and protests to non-payment of solid waste, recycling, and organics handling services provided by Livermore Sanitation for collection on the County Assessor Tax Roll and confirming assessments.

6.2 Hearing to consider a request for a Vesting Tentative Tract Map, Site Plan Design Review, Development Agreement, Consistency Determination, Conditional Use Permit, Master Sign Program Amendment, and Development Code amendment to develop vacant land located southwest of the Portola Avenue and Isabel Avenue intersection with for-sale residential townhome and condominium units and for-rent apartments with mixed commercial and office uses and a public park and public plazas, known as Isabel Crossing.

Recommendation: The Planning Commission and staff recommended the City Council take the following actions:
1. Adopt a resolution adopting an Addendum to the Isabel Neighborhood Specific Plan Supplemental Environmental Impact Report, in accordance with the California Environmental Quality Act.

2. **Introduce an ordinance** and waive the first reading approving Development Code Amendment (DCA) 24-001;

3. Adopt a resolution approving Specific Plan Amendment (SPPA) 24-001;

4. **Introduce an ordinance** and waive the first reading approving Development Agreement (DA) 22-001;

5. Adopt a resolution approving Subdivision (SUB) 22-008, Conditional Use Permit (CUP) 24-002, Site Plan Design Review (SPDR) 24-003, Master Sign Plan Amendment (MSP) 24-001; the proposed Master Plan; the Alternative Affordable Plan; the requested Density Bonus Waivers and Incentive/Concessions; and the No Net Loss findings;

6. Direct the Planning Manager to file a Notice of Determination, in accordance with the provisions of the California Environmental Quality Act, subject to Project approval; and

7. Direct the City Clerk to record the Development Agreement, in accordance with the provisions of the California Government Code, subject to Project approval.

Senior Planner Jake Potter presented the staff report.

Project Attorney Sblend Sblendorio provided a comment.

Owner's Representative Bill Myers provided a comment.

Mayor Marchand opened the public hearing.

Kay King provided a comment.

Jean King provided a comment.

Brian Werner provided a comment.

Laning Thompson provided a comment.

Alan Burnham provided a comment.

Katie Marcel provided a comment.

Lingagoud Memula provided a comment.

Trish Munro provided a comment.

Donna Cabanne provided a comment.

Alan Marling provided a comment.

There were no more speakers, and the hearing was closed.

ON THE MOTION OF COUNCIL MEMBER BRANNING, SECONDED BY VICE MAYOR CARLING AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTIONS AND INTRODUCED THE FOLLOWING ORDINANCES:

Resolution 2024-147 adopting an addendum to the 2020 Isabel Neighborhood Specific Plan Supplemental Environmental Impact Report for the Isabel Crossing Project.

Resolution 2024-148 approving Specific Plan Amendment 24-001, for the Isabel Crossing project, that would amend the Isabel Neighborhood Specific Plan's Master Planning and Inclusionary Policies and amend the Land Use Map.

Resolution 2024-149 approving Vesting Tentative Tract Map (VTTM) 8659 – Subdivision (SUB) 22-008, Site Plan Design Review (SPDR) 24-003, Conditional Use Permit (CUP) 24-002, and Master Sign Program Amendment (MSP) 24-001; the Density Bonus Request; the No Net Loss analysis; the Proposed Master Plan; and the Proposed Alternative Affordable Plan for the Isabel Crossing Project.

Ordinance introduced approving Development Code Amendment 24-001, for the Isable Crossing Project, that would amend the Alternate Means of Compliance and Affordability requirements in Livermore Development Code Section 10.06.050 ("Inclusionary Ordinance")

Ordinance introduced approving Development Agreement (DA) 22-001 with Isabel Portola Owner LLC, for the Isable Crossing Project, that would vest development rights for 20 years, provide financial certainty for the applicant, and secure a range of Community Benefits for the City of Livermore.

4. OPEN FORUM

Mayor Marchand opened the public comment period.

Alan Marling provided a comment.

Donna Cabanne provided a comment.

Jean King provided a comment.

Joe provided a comment.

Janet Murray provided a comment.

There were no more speakers, and the public comment period was closed.

8. COUNCIL COMMITTEE REPORTS AND MATTERS INITIATED BY CITY MANAGER, CITY ATTORNEY, STAFF AND COUNCIL MEMBERS

THE MAYOR AND CITY COUNCIL MEMBERS PROVIDED A SUMMARY OF RECENTLY ATTENDED EVENTS AND MEETINGS IN ADDITION TO THE INFORMATION PROVIDED IN THE SUPPLEMENTAL PACKET. COUNCIL MEMBERS WHO DID NOT PROVIDE A SUMMARY IN THE SUPPLEMENTAL PACKET ARE INCLUDED BELOW.

Alameda County Agricultural Advisory Committee (AAC), Trails Subcommittee, Council Member Barrientos noted his attendance at the meeting on July 15, 2024

Free Range Flower Winery, Council Member Branning noted his attendance at the ribbon cutting on July 11, 2024.

Tri-Valley NonProfit Alliance (TVNPA) Council Member Branning noted his attendance at the check cashing event on July 11, 2024.

SPARC Theater, Vice Mayor Carling noted his attendance at the performance of Twelfth Night at Darcy Kent Winery on Friday July 19, 2024, and encouraged others to attend.

9. ADJOURNMENT – at 10:13 pm to a Regular City Council Meeting on Monday, September 9, 2024 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

APPROVED: _____
JOHN P. MARCHAND, MAYOR

ATTEST: _____
DEBORAH L. ELAM, ACTING CITY CLERK

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.2**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Adoption of two ordinances implementing the Isabel Crossing project, approving Development Code Amendment (DCA) 24-001 and Development Agreement (DA) 22-001.

RECOMMENDED ACTION

Staff recommends the City Council take the following actions:

1. **Adopt an ordinance** approving Development Code Amendment (DCA) 24-001, for the Isabel Crossing Project, that would amend the alternative means of compliance and affordability requirements in Livermore Development Code Section 10.06.050; and
2. **Adopt an ordinanc**e approving Development Agreement (DA) 22-001 with Isabel Portola Owner LLC, for the Isabel Crossing Project, that would vest development rights for 20 years, provide financial certainty for the applicant, and secure a range of community benefits for the City of Livermore.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Ordinance - Development Code Amendment
2. Exhibit A - PC Development Code Amendment Resolution
3. Exhibit B - Livermore Development Code Text Amendment
4. Ordinance - Development Agreement
5. Exhibit A - PC Development Agreement Resolution
6. Exhibit B - Development Agreement

Prepared by: Jake Potter
Senior Planner

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE APPROVING DEVELOPMENT CODE AMENDMENT 24-001 FOR THE ISABEL CROSSING PROJECT THAT WOULD AMEND THE ALTERNATIVE MEANS OF COMPLIANCE AND AFFORDABILITY REQUIREMENTS IN LIVERMORE DEVELOPMENT CODE SECTION 10.06.050 ("INCLUSIONARY ORDINANCE")

On September 22, 2022, the City of Livermore ("City") received an application from the Applicant to develop the approximately 45-acre vacant parcel located at the southwest corner of the Portola Avenue and Isabel Avenue intersection with a mixed-use residential/ commercial development project.

On March 13, 2023, the City Council adopted the 2023 to 2031 Livermore Housing Element, providing adequate sites to support CA's Regional Housing Needs Allocation (RHNA) Sixth Cycle requirements (2023 – 2031).

On May 10, 2024, the City received an amended application from the Applicant for Vesting Tentative Tract Map (VTTM) 8659 – Subdivision (SUB) 22-008, Site Plan Design Review (SPDR) 24-003, Conditional Use Permit (CUP) 24-002, Consistency Determination (CD) 24-004, Master Sign Program Amendment (MSP) 24-001, Development Agreement (DA) 22-001, Development Code Amendment (DCA) 24-001, and Specific Plan Amendment (SPPA) 24-001 (collectively, the "Project"). The Project would develop vacant land located southwest of the Isabel Avenue and Portola Avenue intersection, implementing the Isabel Neighborhood Specific Plan ("Project"). The Project includes 1,299 residential units, including 363 units affordable to individuals and families of lower, median, and moderate incomes, approximately 90,000 square feet of ground-floor commercial, office, and amenity space, an approximately 1.5-acre neighborhood park with an additional approximately 0.5 acres of public plaza space, new bike lanes, street improvements, street trees, public art, and utility infrastructure. The residential units consist of for sale townhomes and duplexes and mid-rise rental apartments. The Project also includes a 20-year Development Agreement between the City and Developer, a new community facilities district to finance Project infrastructure, and Specific Plan amendments. The Project is seeking relief under state housing/streamlining laws.

The City did not meet the Lower Income RHNA requirements for the Fifth RHNA Cycle (2014 – 2022).

The City's existing Inclusionary Ordinance does not require all for-sale development projects in the Isabel Neighborhood Specific Plan to provide Lower Income housing.

Providing adequate Lower Income affordable housing with each development project is critical to keep pace with Livermore's RHNA requirements and to provide a range of housing opportunities for residents of all income levels.

The proposed Inclusionary Ordinance amendments would provide the City Council more flexibility to secure Lower Income affordable housing and ensure future for-sale development projects within the Isabel Neighborhood provide Lower Income affordable units.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES ORDAIN AS FOLLOWS:

Section 1. *Purpose*. This Ordinance makes several changes to Livermore Development Code Section 10.06.050 *Inclusionary Ordinance* to amend the Alternative Means of Compliance and Affordability requirements.

Section 2. *Instruction for Publication*. The amendments made by this Ordinance are made as follows for transparency. Deletions are reflected in this ordinance using a strikethrough, and new language is underlined. However, language with a strikethrough, and the underlines, will not be codified. The codification will only reflect the final language. Exhibit B shows the final amended Development Code text.

Section 3. *Amendment – Development Code.* The Livermore Development Code is hereby amended as follows:

A. 10.06.050(A)(1)(c) is hereby amended so it reads as follows:

c. Isabel Neighborhood Specific Plan Area. In the Isabel Neighborhood Specific Plan area, provide affordable housing in accordance with section 10.06.050(D)(4)(c) below. ~~that at least 20 percent of the total dwelling units shall be affordable housing as follows:~~

~~(1) For-Sale Units. The affordable housing units for for-sale residential developments must be sold to median- and moderate-income households. Of the total number of dwelling units (20 percent) set aside, at least five percent shall be reserved for sale to median-income households with the balance set aside for moderate-income households. Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as median-income units. For example, a 110-unit for-sale residential development would be required to provide 15 percent, or 16.5 units, at the moderate-income level and five percent, or five and one-half units, at the median-income level. Therefore, 16 units shall be provided at the moderate-income level and six units shall be provided at the median-income level.~~

~~(2) Rental Units. The affordable housing units for rental residential developments must be designated or reserved for rental to very-low-income, and low-income, median-income, and moderate-income households. Of the total number of dwelling units (20 percent) set aside, at least six percent shall be reserved for rental to very-low-income households, at least seven percent shall be reserved for low-income households, and at least four percent shall be reserved for median-income households, with the~~

~~balance set aside for moderate-income households. Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as very-low-income units. For example, a 110-unit rental residential development would be required to provide six percent, or six and six-tenths units, at the very-low income level; seven percent, or seven and seven-tenths units, at the low-income level; four percent, or four and four-tenths units at the median-income level; and three percent, or three and three-tenths units, at the moderate-income level. The combined fractional units equate to two units that shall be provided as very-low-income units. Therefore, eight units shall be provided at the very-low income level, seven units shall be provided at the low-income level, four units shall be provided at the median-income level, and three units shall be provided at the moderate-income level.~~

B. 10.06.050 (D)(4)(c) is hereby amended so it reads as follows:

c. Isabel Neighborhood Specific Plan Area.

(1) For-Sale Units. The developer shall reserve ~~20~~ 15 percent or more of the for-sale units as affordable units to be sold to ~~median~~ low-and moderate-income households at a price that does not exceed the maximum affordable purchase price for a unit for those households. The maximum purchase price for ~~median~~ low- and moderate-income households shall be as adopted annually by City Council resolution.

(a) At least ~~five~~ seven-and-one-half (7.5) percent of the reserved units shall be set aside for low ~~median~~-income households, ~~with the balance set aside~~ and at least seven-and-one-half (7.5) percent for moderate-income households.

(b) Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as low ~~median~~-income units ~~as described in subsection A of this section~~.

(c) The for-sale units shall be encumbered in a manner acceptable to the City, so that if a buyer resells the reserved unit within the restricted time period for a price in excess of the inflation-adjusted purchase price, then the excess profit will be returned to the City for use in affordable housing programs.

(2) Rental Units. The developer shall reserve 20 percent or more of the rental units as affordable units to be rented to very-low-income, low-income, median-income, and moderate-income households at a cost that does not exceed maximum monthly rental rates for those households. The maximum monthly rental rates for very-low-income, low-income, median-income, and moderate-income households, shall be adopted annually by City Council resolution.

(a) At least six percent of the reserved units shall be set aside for very-low-income households, at least seven percent shall be set aside for low-income households, and at least four percent shall be set aside for median-income households, ~~with the balance~~ and three percent set aside for moderate-income households.

(b) Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as very-low-income units as described in subsection A of this section.

(c) The rental units shall be marketed and made available through an application process directed by the City and the development shall be managed by an experienced management company acceptable to the City.

C. 10.06.050 (E) is hereby amended so it reads as follows:

E. Implementation – Alternative Means of Compliance.

1. Satisfy Housing Requirement. The following alternatives must be economically equivalent to the affordable housing requirement and may satisfy part or all of the affordable housing requirement.
2. City Council Approval Required. Alternatives to constructing affordable units on site specified in subsections E. 4. a through E.4.~~d~~e of this section require prior City Council approval.
3. As Part of Application Submittal. A request to use one of these alternatives shall be presented to the City Council as part of a tentative subdivision map or land use entitlement application that is submitted to the City.
4. Report Required. The request shall be accompanied by a report proposing the particular alternative requested, how the alternative will be economically equivalent to the requirement and further affordable housing opportunities in the City, and demonstrating why it is not feasible for the applicant to strictly conform to the requirements of Section 10.06.050 (A)~~construct affordable units within the development project~~ (through independent data, including financial information).

    a. Accessory Dwelling Units.
        (1) In a project of more than 50 dwelling units, up to 20 percent of the requirement for reserved units may be satisfied by including accessory dwelling units accessory to the market-priced units.
        (2) Each accessory dwelling unit provides a credit of 20 percent of a required affordable unit, without regard to unit size or other minimum standards specified in subsection D.7 of this section (Comparability of Units).
        (3) The accessory dwelling unit shall comply with the standards specified in Section 6.03.120 (Accessory Dwelling Units).

    b. Off-Site Construction.

(1) A developer may satisfy the affordable housing requirement by constructing, or making provisions to construct, reserved housing units on a site other than the primary project site.
(2) The off-site units are subject to the standards specified in subsections D.1 through D.8 of this section.
(3) A developer may not satisfy the affordable housing requirement by applying credits from reserved units on previously constructed projects.
(4) Other existing units in projects already completed may not be substituted to satisfy the affordable housing requirement.

c. In-Lieu Fee.
(1) A developer may satisfy the affordable housing requirement by paying an in-lieu fee for each market-priced unit.
(2) The method of calculating the in-lieu fee is specified in LMC 3.26.050.
(3) Whenever the number of affordable units required to be constructed includes a fraction of a unit, the payment of a proportional in-lieu fee shall satisfy that partial unit requirement.
(4) For residential subdivisions or rental projects with 10 or fewer units, a developer may satisfy the affordable housing requirement by paying an in-lieu fee for each market-priced unit. This does not require City Council approval.
(5) The applicable fee rate shall be determined at the time of building permit application unless otherwise agreed to in the project's low-income housing agreement.

d. Dedication of Land.
(1) A developer may satisfy the affordable housing requirement by dedicating to the City a parcel of land suitable for development of housing units equal to or exceeding the number of affordable units required to be provided in compliance with this section.
(2) The General Plan designation and zoning designation on the land proposed for dedication shall be consistent with the intended use of the property for affordable housing at the appropriate density, and there shall be direct access to improved streets and utilities.

e. <u>Isabel Neighborhood Specific Plan – Alternative Affordable Plan</u>
<u>(1) Within the Isabel Neighborhood Specific Plan, A developer may satisfy the affordable housing requirement through an Alternative Affordable Plan.</u>
<u>(2) The Alternative Affordable Plan shall meet the following requirements:</u>

i. May only be considered as part of a Development Agreement between a developer and the City of Livermore; and

ii. May only be considered within the Specific Plan Core Area (Subareas 3a, 3b, and 3c).

Section 4. *Recommendation*. The Planning Commission held a duly noticed public hearing on July 2, 2024, to consider adoption of an ordinance approving the Development Code Amendment and by its Resolution No. 18-24, attached hereto as Exhibit A, recommended that the City Council adopt the ordinance and approve the Development Code Amendment.

Section 5. *Public Hearing*. Prior to taking action on the Project, and at a properly noticed public hearing, the City Council of the City of Livermore reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony; and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Ordinance by reference.

Section 6. *Environmental Review*. The City Council has adopted Resolution No. [_____] adopting the Isabel Crossing Addendum to the Isabel Neighborhood Specific Plan Final Supplemental Environmental Impact Report (State Clearinghouse No. 2016042039), and finding that no subsequent or supplemental Environmental Impact Report is required, under the provisions of the California Environmental Quality Act ("CEQA") per CEQA Guidelines section 15164.

Section 7. *Consistency*. Development Code Amendment (DCA) 24-001 is consistent with the General Plan, the Isabel Neighborhood Specific Plan, and the Livermore Development Code.

Section 8. *Findings and Approval*. The City Council has considered the findings made in Planning Commission Resolution No. 18-24, attached hereto as Exhibit A, and hereby adopts the same findings by this reference and incorporates them herein, and based upon the City Council's own independent review of the Record Evidence and considerations, it adopts this Ordinance approving the Development Code Amendment.

Section 9. *Publication and Effective Date*. This ordinance or a comprehensive summary thereof shall be published once in a newspaper of general circulation of the city of Livermore within 15 days after its adoption and shall take effect and be in force 30 days from and after its adoption.

Section 10. *Filing*. The Planning Manager is directed to file a Notice of Determination for the Isabel Crossing Addendum with the Alameda County Clerk.

Section 11. *Documents*. The documents that constitute the record of proceedings upon which this decision is based on can be found in the City Clerk's Office, 1052 S. Livermore Avenue, Livermore, California.

Section 12. *Severability*. If any part of this ordinance is declared unconstitutional or invalid by a court, such unconstitutionality or invalidity shall not affect any remaining parts.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on July 22, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The ordinance was adopted at the regular meeting of the City Council held on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor, City of Livermore

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Planning Commission Resolution 18-24
Exhibit B – Livermore Development Code Text Amendment

EXHIBIT A

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE DEVELOPMENT CODE AMENDMENT 24-001, FOR THE ISABEL CROSSING PROJECT, THAT WOULD AMEND THE ALTERNATIVE MEANS OF COMPLIANCE AND AFFORDABILITY REQUIREMENTS IN LIVERMORE DEVELOPMENT CODE SECTION 10.06.050 ("INCLUSIONARY ORDINANCE")

On September 22, 2022, the City received an application from Isabel Portola Owner, LLC (Harridge Development Group) ("Applicant") to develop the approximately 45-acre vacant parcel located at the southwest corner of the Portola Avenue and Isabel Avenue intersection with a mixed-use residential/ commercial development project.

On May 10, 2024, the City received an amended application from the Applicant for Vesting Tentative Tract Map (VTTM) 8659 – Subdivision (SUB) 22-008, Site Plan Design Review (SPDR) 24-003, Conditional Use Permit (CUP) 24-002, Consistency Determination (CD) 24-004, Master Sign Program Amendment (MSP) 24-00, Development Agreement (DA) 22-001, Development Code Amendment (DCA) 24-001, and Specific Plan Amendment (SPPA) 24-001 (collectively, the "Project"). The Project would develop vacant land located southwest of the Isabel Avenue and Portola Avenue intersection, implementing the Isabel Neighborhood Specific Plan ("Project"). The Project includes 1,299 residential units, including 363 units affordable to individuals and families of lower, median, and moderate incomes, approximately 90,000 square feet of ground-floor commercial, office, and amenity space, an approximately 1.5-acre neighborhood park with an additional approximately 0.5 acres of public plaza space, new bike lanes, street improvements, street trees, public art, and utility infrastructure. The residential units consist of for sale townhomes and duplexes and mid-rise rental apartments. The Project also includes a 20-year Development Agreement between the City and Developer, a new tax district to finance Project infrastructure, and Specific Plan amendments. The Project is seeking relief under state housing/streamlining laws.

DCA 24-001 proposes an amendment to Livermore Development Code section 10.06.050.1.c, modifying the affordable housing requirements in the Isabel Neighborhood Specific Plan Area, and amending section 10.06.050.E.4., establishing alternative means of compliance for development within a portion of the Isabel Neighborhood Specific Plan Area.

On July 2, 2024, the Planning Commission held a duly noticed public hearing to consider the Amendment, together with the Project, staff recommendations, all public comments and testimony, and findings.

Together with this Resolution, the Planning Commission concurrently considered resolutions for: 1) the Project's Vesting Tentative Tract Map (VTTM) 8659 – Subdivision (SUB) 22-008, Site Plan Design Review (SPDR) 24-003, Conditional Use Permit (CUP) 24-002, and Master Sign Program Amendment (MSP) 24-00 applications; 2) the Project's Development Agreement (DA) 22-001 application; 3) the Project's Specific Plan Amendment (SPPA) 24-001 application; and 4) the Project's Consistency Determination (CD) 24-004 application.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of

Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the Planning Commission reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore has considered the Record Evidence and recommends the City Council adopt a resolution adopting an Addendum to the 2020 Isabel Neighborhood Specific Plan Supplemental Environmental Impact Report (SCH #2016042039), consistent with the requirements of the California Environmental Quality Act ("CEQA").

BE IT FURTHER RESOLVED, with respect to Development Code Amendment (DCA) 24-001, the Planning Commission finds based upon the information presented that:

1. The proposed amendment is consistent with the General Plan and any applicable Specific Plan.

   Findings: The Project proposes a Development Code Amendment to: 1) Enable the approval of the Project's proposed alternative means of compliance with applicable City affordable housing requirements; and 2) Replace the existing Specific Plan's for-sale affordable requirements with the Citywide rates of 7.5% Lower and 7.5% Moderate. Each component of the Amendment is consistent with the General Plan and Isabel Neighborhood Specific Plan, as follows:

   Consistency with General Plan Housing Element

   The proposed Inclusionary Ordinance amendments are consistent with the following General Plan Housing Element policies:

   - Policy 1.2: Facilitate the development of a range of housing types through area planning efforts.
   - Policy 2.1: Facilitate the provision of affordable housing, infill development, and mixed-use projects in locations served by existing infrastructure, particularly transit services.
   - Policy 3.1: Facilitate the production of affordable housing through regulation of and incentives to new development.

   The proposed Inclusionary Ordinance amendments would allow for a distinct Alternative Means of Compliance within the Isabel Neighborhood Specific Plan. The proposed Alternative Means of Compliance would allow the City Council to authorize a development to deviate from the Inclusionary Ordinance requirements, so long as the alternative is economically equivalent. In this way, the amendment facilitates the production of affordable housing by allowing for more flexibility and novel approaches to housing production.

   Project proposes a creative approach whereby the market-rate for-sale units

offset the financial costs of the required affordable housing. By untethering affordable housing from every product type, affordable units could be focused in portions of the site and additional affordable units could be provided, beyond that required. Further, the City Council still ensures the alternative proposal is economically equivalent to the standard inclusionary requirements, guaranteeing each project will still provide sufficient affordable housing and a range of housing types.

The Amendment to the Inclusionary Ordinance would also modify the required affordability levels from 20% median and moderate, to 15% Lower and Moderate. Historically, Livermore has overperformed its RHNA numbers in the Median and Moderate categories, and underperformed in the Lower category. This modification ensures future for-sale product would be required to provide Lower Income units, ensuring Specific Plan policy better keeps pace with Livermore's RHNA requirements and a range of housing types is provided.

Consistency with Isabel Neighborhood General Plan Designation

The project site has a General Plan land use designation of Isabel Neighborhood. The Isabel Neighborhood seeks to create a safe, vibrant, complete neighborhood that includes amenities for residents, workers, and students; ensure new development is compatible with existing development and community character; and support transit ridership and citywide goals for increased transportation options, housing choices, and economic vitality [Livermore General Plan Land Use Element, p. 3-23]. The proposed amendments would facilitate the proposed Project, which will provide diverse housing choices that are affordable to a range of income levels.

Consistency with Isabel Neighborhood Specific Plan

The proposed Inclusionary Ordinance Amendments are consistent with the following Specific Plan Goals:

- G-LU-5: Support a diverse housing stock that provides options for students, seniors, low-income families, first-time homebuyers, and people with disabilities.
- G-LU-6: Promote the production of affordable for-sale and rental units and mixed-income developments such that at least 25 percent of all new units at build-out are offered at below-market rates, in order to provide affordable housing opportunities for rent and ownership in the Isabel Neighborhood and to take advantage of the strong connection between transit use and affordable housing.

The proposed Amendments would allow for more flexibility in affordable housing production by granting the City Council the authority to allow alternative affordable plans. Such plans could provide higher quantities of affordable units by allowing projects to deviate from the Inclusionary Ordinance's comparability

standards. For example, the proposed Isabel Crossing Project focuses affordability levels in certain unit types and in certain portions of the site plan, but provides 28% overall affordability, which is 8% higher than required. This helps drive up overall affordability levels in the Specific Plan, furthering Specific Plan G-LU-6. In addition, the proposed modifications to the affordability requirements would require for-sale units in the Specific Plan to provide Lower Income housing units. This would increase the diversity of Livermore's housing stock, ensuring options for individuals and families of all incomes. The proposed changes align with the proposed Specific Plan amendments that allow for the same.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

   Findings: Any Alternative Affordable Plan would still be required to demonstrate economic equivalence, ensuring all projects continue to meet their affordable obligations. Further, the proposed changes to the affordability requirements would increase Livermore's production of Lower Income units, diversifying Livermore's housing stock and increasing housing opportunities for lower income individuals and families. The changes would not change the required project review process. All projects would still be required to provide utilities and services to all new residents and would be required to protect the environment. The City Council may deny a proposed affordable plan or a proposed project if it does not meet City standards. Therefore, the proposed Amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

   Findings: The proposed amendments only affect the Inclusionary Ordinance, codified in section 10.06.050 of the Development Code. The proposed alternative affordable plan language is consistent with the existing Alternative Means of Compliance section of the Inclusionary Ordinance, in that it allows for the City Council to authorize certain deviations from the Development Code if the project demonstrates economic equivalence. The proposed amendments to the affordability requirements within the Isabel Neighborhood Specific Plan Area, aligns the Specific Plan with the rest of the City, where for-sale units are required to provide 15% affordable units, divided evenly between the Lower and Moderate-income levels. Therefore, both changes are consistent with existing Inclusionary Ordinance standards and will not conflict with any other provision of the Development Code.

BE IT FURTHER RESOLVED that the Livermore Planning Commission, based upon its own independent review of the Record Evidence and considerations, and based on the above findings which are necessary to protect the public health, safety, and general welfare, hereby recommends the City Council approve Development Code Amendment (DCA) 24-001.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct the Planning Manager to file a Notice of Determination for the Project with the Alameda County Clerk if the Project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Kronzak, seconded by Commissioner Leary, the foregoing Resolution was adopted at the Planning Commission meeting of July 2, 2024 by the following vote:

AYES: DUNBAR, FINTSCHENKO, KRONZAK, LEARY.
NOES: NONE.
ABSENT: ANDERSON.

Jacob Anderson, Chairperson

Stephen Riley

by Stephen Riley, Planning Manager
Secretary to the Planning Commission

10.06.050(A)(1)(c)

c. Isabel Neighborhood Specific Plan Area. In the Isabel Neighborhood Specific Plan area, provide affordable housing in accordance with section 10.06.050(D)(4)(c) below.

10.06.050(D)(4)(c)

c. Isabel Neighborhood Specific Plan Area.

(1) For-Sale Units. The developer shall reserve 15 percent or more of the for-sale units as affordable units to be sold to low-and moderate-income households at a price that does not exceed the maximum affordable purchase price for a unit for those households. The

maximum purchase price for low- and moderate-income households shall be as adopted annually by City Council resolution.

(a) At least seven-and-one-half (7.5) percent of the reserved units shall be set aside for low-income households, and at least seven-and-one-half (7.5) percent for moderate- income households.

(b) Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as low-income units.

(c) The for-sale units shall be encumbered in a manner acceptable to the City, so that if a buyer resells the reserved unit within the restricted time period for a price in excess of the inflation-adjusted purchase price, then the excess profit will be returned to the City for use in affordable housing programs.

(2) Rental Units. The developer shall reserve 20 percent or more of the rental units as affordable units to be rented to very-low-income, low-income, median-income, and moderate-income households at a cost that does not exceed maximum monthly rental rates for those households. The maximum monthly rental rates for very-low-income, low-income, median-income, and moderate-income households, shall be adopted annually by City Council resolution.

(a) At least six percent of the reserved units shall be set aside for very-low-income households, at least seven percent shall be set aside for low-income households, and at least four percent shall be set aside for median-income households, ~~with the balance~~ and three percent set aside for moderate-income households.

(b) Whenever the inclusionary requirement results in a fraction of units, the units shall be combined and provided as very-low-income units as described in subsection A of this section.

(c) The rental units shall be marketed and made available through an application process directed by the City and the development shall be managed by an experienced management company acceptable to the City.

10.06.050(E)

E. Implementation – Alternative Means of Compliance.

1. Satisfy Housing Requirement. The following alternatives must be economically equivalent to the affordable housing requirement and may satisfy part or all of the affordable housing requirement.
2. City Council Approval Required. Alternatives to constructing affordable units on site specified in subsections E. 4. a through E.4.e of this section require prior City Council approval.
3. As Part of Application Submittal. A request to use one of these alternatives shall be presented to the City Council as part of a tentative subdivision map or land use entitlement application that is submitted to the City.
4. Report Required. The request shall be accompanied by a report proposing the particular alternative requested, how the alternative will be economically equivalent to the requirement and further affordable housing opportunities in the City, and demonstrating why it is not feasible for the applicant to strictly conform to the requirements of Section 10.06.050 (A) (through independent data, including financial information).

   a. Accessory Dwelling Units.

      (1) In a project of more than 50 dwelling units, up to 20 percent of the requirement for reserved units may be satisfied by including accessory dwelling units accessory to the market-priced units.

      (2) Each accessory dwelling unit provides a credit of 20 percent of a required affordable unit, without regard to unit size or other minimum standards specified in subsection D.7 of this section (Comparability of Units).

      (3) The accessory dwelling unit shall comply with the standards specified in Section 6.03.120 (Accessory Dwelling Units).

   b. Off-Site Construction.

      (1) A developer may satisfy the affordable housing requirement by constructing, or making provisions to construct, reserved housing units on a site other than the primary project site.

      (2) The off-site units are subject to the standards specified in subsections D.1 through D.8 of this section.

      (3) A developer may not satisfy the affordable housing requirement by applying credits from reserved units on previously constructed projects.

      (4) Other existing units in projects already completed may not be substituted to satisfy the affordable housing requirement.

c. In-Lieu Fee.

(1) A developer may satisfy the affordable housing requirement by paying an in-lieu fee for each market-priced unit.

(2) The method of calculating the in-lieu fee is specified in LMC 3.26.050.

(3) Whenever the number of affordable units required to be constructed includes a fraction of a unit, the payment of a proportional in-lieu fee shall satisfy that partial unit requirement.

(4) For residential subdivisions or rental projects with 10 or fewer units, a developer may satisfy the affordable housing requirement by paying an in-lieu fee for each market-priced unit. This does not require City Council approval.

(5) The applicable fee rate shall be determined at the time of building permit application unless otherwise agreed to in the project's low-income housing agreement.

d. Dedication of Land.

(1) A developer may satisfy the affordable housing requirement by dedicating to the City a parcel of land suitable for development of housing units equal to or exceeding the number of affordable units required to be provided in compliance with this section.

(2) The General Plan designation and zoning designation on the land proposed for dedication shall be consistent with the intended use of the property for affordable housing at the appropriate density, and there shall be direct access to improved streets and utilities.

e. Isabel Neighborhood Specific Plan – Alternative Affordable Plan

(1) Within the Isabel Neighborhood Specific Plan, a developer may satisfy the affordable housing requirement through an Alternative Affordable Plan.

(2) The Alternative Affordable Plan shall meet the following requirements:

i. May only be considered as part of a Development Agreement between a developer and the City of Livermore; and

ii. May only be considered within the Specific Plan Core Area (Subareas 3a, 3b, and 3c).

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE APPROVING DEVELOPMENT AGREEMENT (DA) 22-001 WITH ISABEL PORTOLA OWNER LLC, FOR THE ISABEL CROSSING PROJECT, THAT WOULD VEST DEVELOPMENT RIGHTS FOR 20 YEARS, PROVIDE FINANCIAL CERTAINTY FOR THE APPLICANT, AND SECURE A RANGE OF COMMUNITY BENEFITS FOR THE CITY OF LIVERMORE

California Government Code Section 65864 (implemented by Livermore Development Code Chapter 9.04) allows local jurisdictions and private parties to enter into Development Agreements in order to vest certain development rights and to meet local public purpose.

On May 9, 2022, the City Council authorized staff to begin Development Agreement ("Agreement") negotiations with Isabel Portola Owner, LLC (Harridge Development Group) ("Applicant").

On September 22, 2022, the City of Livermore ("City") received an application from the Applicant to develop the approximately 45-acre vacant parcel located at the southwest corner of the Portola Avenue and Isabel Avenue intersection with a mixed-use residential/ commercial development project.

On May 10, 2024, the City received an amended application from the Applicant for Vesting Tentative Tract Map (VTTM) 8659 – Subdivision (SUB) 22-008, Site Plan Design Review (SPDR) 24-003, Conditional Use Permit (CUP) 24-002, Consistency Determination (CD) 24-004, Master Sign Program Amendment (MSP) 24-001, Development Agreement (DA) 22-001, Development Code Amendment (DCA) 24-001, and Specific Plan Amendment (SPPA) 24-001 (collectively, the "Project"). The Project would develop vacant land located southwest of the Isabel Avenue and Portola Avenue intersection, implementing the Isabel Neighborhood Specific Plan ("Project"). The Project includes 1,299 residential units, including 363 units affordable to individuals and families of lower, median, and moderate incomes, approximately 90,000 square feet of ground-floor commercial, office, and amenity space, an approximately 1.5-acre neighborhood park with an additional approximately 0.5 acres of public plaza space, new bike lanes, street improvements, street trees, public art, and utility infrastructure. The residential units consist of for sale townhomes and duplexes and mid-rise rental apartments. The Project also includes a 20-year Development Agreement between the City and Developer, a new community facilities district to finance Project infrastructure, and Specific Plan amendments. The Project is seeking relief under state housing/streamlining laws.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES ORDAIN AS FOLLOWS:

Section 1. *Authority*. Pursuant to Government Code Section 65864 et seq., the City Council considers that certain document under City Application No. Development Agreement 22-001 and entitled "Development Agreement (DA) 22-001 for the Isabel

Crossing Project" ("Development Agreement"). The Development Agreement is attached hereto as Exhibit B.

Section 2. *Recommendation*. The Planning Commission held a duly noticed public hearing on July 2, 2024, to consider adoption of an ordinance approving the Development Agreement and by its Resolution No. 19-24, attached hereto as Exhibit A, recommended that the City Council adopt the ordinance and approve the Development Agreement.

Section 3. *Public Hearing*. Prior to taking action on the Project, and at a properly noticed public hearing, the City Council of the City of Livermore reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony; and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Ordinance by reference.

Section 4. *Environmental Review*. The City Council has adopted Resolution No. [_____] adopting the Isabel Crossing Addendum to the Isabel Neighborhood Specific Plan Final Supplemental Environmental Impact Report (State Clearinghouse No. 2016042039), and finding that no subsequent or supplemental Environmental Impact Report is required, under the provisions of the California Environmental Quality Act ("CEQA") per CEQA Guidelines section 15164.

Section 5. *Consistency*. Development Agreement 22-001 is consistent with the General Plan and the Livermore Development Code Chapter 9.04.

Section 6. *Findings and Approval*. The City Council has considered the findings made in Planning Commission Resolution No. 19-24, attached hereto as Exhibit A, and hereby adopts the same findings by this reference and incorporates them herein, and based upon the City Council's own independent review of the Record Evidence and considerations, it adopts this Ordinance approving the Development Agreement.

Section 7. *Signing Authority.* The City Manager is hereby authorized to sign the Development Agreement, attached hereto as Exhibit B, on behalf of the City of Livermore.

Section 8. *Publication and Effective Date.* This ordinance or a comprehensive summary thereof shall be published once in a newspaper of general circulation of the City of Livermore within 15 days after its adoption and shall take effect and be in force 30 days from and after its adoption.

Section 9. *Filing.* The Planning Manager is directed to file a Notice of Determination for the Isabel Crossing Addendum with the Alameda County Clerk.

Section 10. *Recording.* The City Clerk is directed to record the Development Agreement within 10 days after the effective date of the Development Agreement.

Section 11. *Documents.* The documents that constitute the record of proceedings upon which this decision is based on can be found in the City Clerk's Office, 1052 S. Livermore Avenue, Livermore, California.

Section 12. *Severability.* If any part of this ordinance is declared unconstitutional or invalid by a court, such unconstitutionality or invalidity shall not affect any remaining parts.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on July 22, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The ordinance was adopted at the regular meeting of the City Council held on _____, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor, City of Livermore

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Planning Commission Resolution 19-24
Exhibit B – Development Agreement

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE DEVELOPMENT AGREEMENT (DA) 22-001, FOR THE ISABEL CROSSING PROJECT, THAT WOULD VEST DEVELOPMENT RIGHTS FOR 20 YEARS, PROVIDE FINANCIAL CERTAINTY FOR THE APPLICANT, AND SECURE A RANGE OF COMMUNITY BENEFITS FOR THE CITY

CA Government Code Section 65864 (implemented by Livermore Development Code Chapter 9.04) allows local jurisdictions and private parties to enter into Development Agreements in order to vest certain development rights and to meet local public purpose.

On May 9, 2022, the City Council authorized staff to begin Development Agreement ("Agreement") negotiations with Isabel Portola Owner, LLC (Harridge Development Group) ("Applicant").

On September 22, 2022, the City received an application from the Applicant to develop the approximately 45-acre vacant parcel located at the southwest corner of the Portola Avenue and Isabel Avenue intersection with a mixed-use residential/ commercial development project.

On May 10, 2024, the City received an amended application from the Applicant for Vesting Tentative Tract Map (VTTM) 8659 – Subdivision (SUB) 22-008, Site Plan Design Review (SPDR) 24-003, Conditional Use Permit (CUP) 24-002, Consistency Determination (CD) 24-004, Master Sign Program Amendment (MSP) 24-001, Development Agreement (DA) 22-001, Development Code Amendment (DCA) 24-001, and Specific Plan Amendment (SPPA) 24-001 (collectively, the "Project"). The Project would develop vacant land located southwest of the Isabel Avenue and Portola Avenue intersection, implementing the Isabel Neighborhood Specific Plan ("Project"). The Project includes 1,299 residential units, including 363 units affordable to individuals and families of lower, median, and moderate incomes, approximately 90,000 square feet of ground-floor commercial, office, and amenity space, an approximately 1.5-acre neighborhood park with an additional approximately 0.5 acres of public plaza space, new bike lanes, street improvements, street trees, public art, and utility infrastructure. The residential units consist of for sale townhomes and duplexes and mid-rise rental apartments. The Project also includes a 20-year Development Agreement between the City and Developer, a new community facilities district to finance Project infrastructure, and Specific Plan amendments. The Project is seeking relief under state housing/streamlining laws.

On July 2, 2024, the Planning Commission held a duly noticed public hearing to consider the Agreement, together with the Project, staff recommendations, all public comments and testimony, and findings.

Together with this Resolution, the Planning Commission concurrently considered Resolutions for the following: 1) The Project's Vesting Tentative Tract Map (VTTM) 8659 – Subdivision (SUB) 22-008, Site Plan Design Review (SPDR) 24-003, Conditional Use Permit (CUP) 24-002, Master Sign Program Amendment (MSP) 24-00 applications; 2) The Project's Development Code Amendment (DCA) 24-001 application; 3) The Project's Specific Plan

Amendment (SPPA) 24-001 application; and 4) the Project's Consistency Determination (CD) 24-004

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the Planning Commission reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore has considered the Record Evidence and recommends the City Council adopt a resolution adopting an Addendum to the 2020 Isabel Neighborhood Specific Plan Supplemental Environmental Impact Report (SCH #2016042039), consistent with the requirements of the California Environmental Quality Act ("CEQA").

BE IT FURTHER RESOLVED, with respect to Development Agreement 22-001, the Planning Commission finds based upon the information presented that:

1. The Development Agreement provides benefit to the City.

   Findings: The Development Agreement will facilitate the development of the proposed Isabel Crossing master planned development project (Project), which provide substantial benefits to the City.

   The Project would contribute to the City's housing and economic development goals. The proposed development consists of 1,299 residential units on approximately 45 acres of land. This would consist of 535 market-rate for-sale townhomes, 10 affordable for-sale townhomes, 241 market-rate for-sale condos, 47 affordable for-sale condos, 160 market-rate for-rent apartments, and 306 affordable for-rent apartments. While the Project is only required to provide a total of 260 affordable units (20%) under the applicable Isabel Neighborhood Specific Plan (INSP), the Project proposes to provide a total of 363 affordable units; 28% of the total units provided and 103 more affordable units than would otherwise be required by the INSP. The units will be deed restricted for sale and rent to median-, moderate-, low-income and very low income households, with 65 very low income rental units, 113 low income rental units, 65 median income rental units, 63 moderate income rental units, 18 median income for-sale units, and 39 moderate income for-sale units. These affordable units – and in particular the higher number of low and very low income units than would otherwise be required by strict compliance with INSP standards – will contribute toward Livermore's 2023-2031 RHNA allocation of 4,570 units and provide much needed low and very low income housing units to help the city meet its specific RHNA goals of producing a total of 1,317 very low and 758 low income units during the current Housing Element cycle ending in 2031.

   This Project will also serve the best interests, and the public health, safety, and welfare of the residents and invitees of the City through: the provision of substantial public revenue in the form of impact fees and increased real property and sales taxes; the provision of land uses that are compatible with the physical nature of the Property and the surrounding area; a new commercial main street that would provide new permanent

jobs and community-serving retail and other commercial uses; new road and alternative transportation infrastructure including an access point for a future light rail station; new public open space and recreational facilities including a neighborhood park, private recreation center and multiple public plazas; and financial contributions to City funds. More information regarding each City benefit is described below:

Economic and Fiscal

According to the *Fiscal / Economic Analysis* report prepared by Kosmont, the Project will provide an estimated $1 million in net new annual tax revenue at full buildout, accounting for Project utility and service needs. Further, the Project would provide over 3,700 construction jobs onsite during the construction period, and an estimated $615 million in total economic output during construction (representing new labor income and goods and services produced within Livermore). During operations at full buildout, the Project would generate $43 million in new local retail spending, provide 200 new jobs, with an estimated $70 million total annual economic output (representing new jobs, new spending, and new wages). The Project represents an approximately $600 million initial investment into the City of Livermore.

Alternative Transportation Infrastructure

The Agreement secures one additional mile of bike lanes beyond the normal developer frontage obligations, one fully protected bike intersection, two additional bus stops, an extra 1,500-foot-long landscaped street median, and two fully-protected pedestrian crossings.

Commercial Uses

The Agreement ensures a non-membership grocer or food sales use will occur onsite, requires temporary commercial activation of the site, and incentivizes the Main Street retail uses to build out earlier than the current market would likely deliver retail uses onto Main Street.

Affordable Housing

The Agreement secures eight percent more affordable housing than required, representing 103 more overall units than required, representing an investment of approximately $15 million above the requirement. Of the total, the Project is providing 116 more Lower Income units than required. Further, the Agreement requires an $11.4 million low-income housing bond to ensure the low-income housing is constructed.

Architecture and Design

Given new state housing laws requiring objective design standards for new buildings, the Agreement secures high quality design that reflects the character of Livermore.

Public Art

The Agreement will ensure all Project-generated public art funds will be used within the Project site, and that a comprehensive Art Master Plan will be formed to secure high-quality pieces and one integrated design theme.

Financial Contributions

The Agreement secures an additional $1.2 million in public funding for the City's Community Benefit Fund and $800,000 into the Social Opportunity Endowment Fund. In addition, the Project will pay $2 million worth of Park Fees early, to facilitate the City's current capital park construction needs.

Public Safety

As a requirement of the Agreement, the Developer will install a range of closed-circuit television cameras and vehicle license plate reader cameras along the periphery and within the Project site. The cameras will be connected via fiber optic lines to the Real Time Awareness Center and will help increase the Police Department's situational awareness and keep residents safe.

Construction Sales Tax

Livermore will be designated as the point of sale for all construction materials, ensuring the City receives additional sales tax proceeds during construction.

2. The Development Agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable Specific Plan, and this Development Code.

   Findings: The Project would not change the General Plan land use designation of Isabel Neighborhood ("IN") and would comply with the General Plan and IN's purpose, intent, goals, policies, and program. The Project is designed to develop a vibrant, safe, and complete neighborhood with a wide range of housing options at different affordability levels, commercial spaces, public open space and recreational amenities, public art and cultural opportunities, and new construction and permanent job opportunities, as well as supporting transit ridership and citywide goals for increased transit options and alternative transportation.

   The Project would also be consistent with the regulations and provisions of the INSP, inclusive of the proposed Specific Plan Amendment. The Project proposes a new master planned development that would realign project planning areas, development blocks, land uses, infrastructure elements, and streets within subarea 3b and 3c of the INSP in a manner that substantially conforms to the intent of the INSP to create a vibrant, walkable mixed-use community. The neighborhood will include higher density residential uses providing a mix of product types, unit sizes, and affordability levels, public open space amenities that promote recreation and alternative forms of transportation including a new neighborhood park, recreation center, public plazas, new bike lanes and trails, public art and cultural opportunities, and job-producing

commercial uses within a new commercial main street, all within close, walkable proximity of one another.

Further, the Project ensures that its proposed land uses are compatible with existing neighboring residential and commercial uses and transportation infrastructure by minimizing conflicts between adjacent land uses with respect to scale, safety, noise, privacy, transportation, and other potential nuisances and hazards. The Project proposes contemporary architecture with traditional design elements and articulated facades, multiple building types that are differentiated while providing cohesive design and site plan layouts, and multiple material types, consistent with applicable General Plan and INSP goals and policies.

Together with the Density Bonus request, the Project conforms to all design and development standards required by the Specific Plan, Development Code, and the Citywide Design Standards and Guidelines.

3. The Development Agreement complies with the requirements of Government Code Sections 65864 through 65869.5.

   Findings: The Development Agreement between the City and the Developer regulates development of the Project site (Project Site) with the Project. Pursuant to the applicable requirements of the California Government Code governing development agreements, the Development Agreement specifies the duration of the agreement, the permitted uses of the property, the density and intensity of uses, the maximum height and size of proposed buildings, the provision of affordable housing, the provision and dedication of land for public purposes, and the timing and sequencing of proposed construction, among other terms and applicable requirements for California development agreements. Review, approval, and recordation of the Development Agreement will furthermore be conducted in accordance with the provisions of Government Code sections 65864 through 65869.5.

   Government Code Section 65867.5 requires that, if a Development Agreement includes a subdivision, that the Tentative Map complies with Government Code Section 66473.7, which mandates that sufficient water supply be made available for new subdivisions. The Project includes a Tentative Map. The Conditions of Approval require sufficient water supplies be made available. In addition, the Project EIR Addendum conducted a water supply analysis and found that both the City of Livermore (retailer) and Zone 7 (wholesaler) have sufficient water supplies to serve the Project over the next 20 years. Therefore, the Project complies with Government Code Section 65867.5.

BE IT FURTHER RESOLVED that the Livermore Planning Commission, based upon its own independent review of the Record Evidence and considerations, and based on the above findings which are necessary to protect the public health, safety, and general welfare, hereby recommends the City Council approve Development Agreement 22-001 and the Project.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends

the City Council direct the Planning Manager to file a Notice of Determination for the Project with the Alameda County Clerk if the Project is approved.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct the City Clerk to record with the Alameda County Recorder a copy of the Agreement within 10 days of the City entering into the Agreement.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct the Planning Manager to periodically review the terms of the Agreement at least every 12 months per Development Code section 9.04.070, and ensure the Applicant or Successor is demonstrating good faith compliance with the terms of the Agreement.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Kronzak, seconded by Commissioner Leary, the foregoing Resolution was adopted at the Planning Commission meeting of July 2, 2024 by the following vote:

AYES: DUNBAR, FINTSCHENKO, KRONZAK, LEARY.
NOES: NONE.
ABSENT: ANDERSON.

Jacob Anderson, Chairperson

Stephen Riley

by Stephen Riley, Planning Manager
Secretary to the Planning Commission

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City Clerk
City of Livermore
1052 S. Livermore Avenue
Livermore, CA 94550

No fee for recording pursuant to
California Government Code Section 27383

24-0393

DEVELOPMENT AGREEMENT (DA22-001) ISABEL CROSSING DEVELOPMENT PROJECT IN THE ISABEL NEIGHBORHOOD SPECIFIC PLAN AREA

This Development Agreement **("Agreement")** is entered into on _____, 2024, between the City of Livermore, a municipal corporation, **("City")** and ISABEL PORTOLA OWNER, LLC, a Delaware limited liability company qualified to do business in California **("Developer")**. At times in this Agreement, the City and the Developer are referred to individually as a **"Party"** and collectively as the **"Parties"** for certain terms, conditions, and responsibilities that benefit them or are owed by them to the other, either individually or collectively.

RECITALS

This Agreement is based on the following facts:

A. The City is authorized by California Government Code section 65864 *et seq.* **("Development Agreement Statutes")** and Livermore Development Code Chapter 9.04 to execute development agreements in order to vest certain rights in the Developer, and to meet certain public purposes of the local government, as set forth in those laws.

B. The Developer represents and warrants the following to the City, and City has relied upon such representations for this Agreement, as of the Effective Date:

(1) Organization. The Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and qualified to do business in California, with full power and authority to conduct its business as presently conducted and to execute, deliver, and perform its obligations under this Agreement.

(2) Authorization. The Developer has taken all necessary action to authorize its execution, delivery and, subject to any conditions set forth in this Agreement, performance of the Agreement. Upon the Effective Date of this Agreement, this Agreement shall constitute a legal, valid, and binding obligation of the Developer, enforceable against the Developer in accordance with its terms.

(3) No Conflict. The execution, delivery and performance of this Agreement by the Developer does not and will not conflict with, or constitute a violation or breach of, or constitute a default under (i) the charter or incorporation documents of Developer, (ii) any applicable law, rule or regulation binding upon or applicable to the Developer, or (iii) any material agreements to which the Developer is a party.

C. The Developer is the owner of the property comprised of approximately 46 acres of undeveloped land located at the southwest corner of Isabel Avenue and Portola Avenue in the City of Livermore, County of Alameda, County Assessor Numbers 903-0010-054-00l; 903-0010-053-00; 903-0010-052-00; 903-0010-047-00; 903-0010-046-00; 903-0010-048-00; 903-0010-049-00; 903-0010-050-00; 903-0010-051-00; 903-0010-037-02; 903-0010-035-01, more particularly described in Exhibit A, attached hereto and incorporated herein by reference **("Property").**

D. The Property is located within the Isabel Neighborhood that is identified in the City's Isabel Neighborhood Specific Plan **("INSP")**. The INSP establishes the regulatory framework guiding private and public development and redevelopment within the Isabel Neighborhood planning area until 2040. The INSP planning area covers 1,138 acres that are located in the northwest part of the City. The objectives of the INSP include: create a safe, vibrant, complete neighborhood that includes amenities for residents, workers, and students; ensure new development that is compatible with existing development and community character; support transit ridership and citywide goals for increased transportation options, housing choices, and economic vitality; and support the Valley Link project through development of a complete neighborhood. The complete neighborhood envisioned by the INSP has a complete mix of housing, commercial and office uses, and community uses that provide residents and workers with easy well-connected access to everyday services such as grocery stores and restaurants. The INSP contains a subarea diagram, Figure 2-3, **("INSP Subarea Diagram")** that identifies the plan's subareas and corresponding land uses for property owners to use as a tool to prepare master plans for those subareas, with density averaged and land uses distributed across the subarea rather than at the parcel level, which is attached hereto as Exhibit K.

E. The Property is identified as subareas 3b and 3c within the INSP. Subareas 3b and 3c are planned by the INSP for a mix of uses, predominantly focused on higher density mixed-income residential uses with robust affordable housing requirements. Subareas 3b and 3c also include a neighborhood park and other public open space and recreational areas, in addition to focused commercial and retail uses. The INSP encourages developers to create "Master Plans" for different residential subareas to promote efficient and orderly development.

The Developer proposes to develop the Property into a mixed residential and commercial development consisting of approximately 1,299 dwelling units, approximately 75,000 square feet of commercial uses along a new commercial main street, public open space uses and amenities including a neighborhood park, community center, and public bike paths. The 1,299 dwelling units provided by the project include 363 new covenanted affordable units of which 178 will be provided as Low and Very Low Income affordable rental units, 128 Moderate- and Median-Income affordable units, and 57 Moderate and Median Income for-sale units. The Project's residential uses are provided within townhomes, multi-family apartments, and stacked flats provided with a variety of product types and sub-types. The Project also provides over two acres of neighborhood park and public recreational spaces, public plazas, public meeting places, and a location for a new access point for the future Valley Link Isabel Train Station. The project will also provide new streets, street lighting,

landscaping, and other public infrastructure and improvements as described herein and in the conceptual land use plan attached as Exhibit B **("Project").**

F. The Project furthers the INSP's goal to provide approved higher-density residential and other approved uses in an efficient and orderly manner and provides a master plan for INSP subareas 3b and 3c by creating nineteen (19) distinct planning areas **("Master Planning Areas")**, which are also depicted in Exhibit B, hereto. The Master Planning Areas proposed for the Project include a wide variety of higher density mixed-income housing product types and sub-product types and designs, in addition to park and public open space areas and commercial uses, and include the following, as further depicted on Exhibit B:

INSP Subarea	Planning Area	Project Description
3b	N1	5.18 acres with 94 3-story attached and 4 3- story detached townhouse-style residences.
3b	N2	3.08 acres with 54 3-story attached and 2 3- story detached townhouse-style residences
3b	N3-A	1.89 acres with 40, 3-story attached townhouse-style residences
3b	N3-B	1.50 acre Neighborhood Park
3b	N3-C	0.45 acres planned for a Recreation Center
3b	C1-A	2.89 acres with 62 3-story attached townhouse-style residences
3b	C1-B	1.49 acres with 114 multi-family apartment units, 50% of which shall be deed restricted as Median Income Rental Units and 50% of which shall be deed restricted Moderate Income Rental Units and 18,992 square feet of commercial uses, inclusive of a public plaza
3b	C1-C	0.17 acre Pocket Plaza
3b	C2-A	1.72 acres with 116 stacked flat condo units, 15 of which shall be deed restricted as For Sale Moderate Units and 20,719 square feet of commercial uses inclusive of a public plaza
3b	C2-B	0.99 acres with 16 3-story attached and 1 detached townhouse-style residences
3b	C2-C	0.19 acre Pocket Plaza

3b	C3	1.88 acres with 45 3-story attached townhouse-style residences
3b	C5	3.79 acres with 84 3-story attached townhouse-style residences
3b	TS	0.22 acre Town Square
3b	S1	2.55 acres with 172 stacked flat condo units 20 of which shall be deed restricted as For Sale Moderate Units and 23,924 square feet of commercial uses
3c	S2	3.36 acres with 102 3-story attached townhouse-style residences
3c	S3-A	1.12 acres with 114 multi-family apartment units all deed restricted as Lower Income Housing Rental Units
3c	S3-B	1.38 acres with 200 multi-family apartment units, 40 of which shall be dedicated as affordable multi-family rental housing units consistent with the applicable requirements of the City's Inclusionary Housing Ordinance
3c	S4	1.33 acres with 41 3-story attached townhouse-style residences, 10 of which shall be deed restricted as For Sale Moderate Units

G. The Developer has submitted an application to the City of Livermore for the following entitlements **("Entitlements")** for the Project, including Development Agreement (DA22-001) for this Agreement, as required under the Livermore Development Code to be vested in accordance with the Agreement subject to their conditions of approval:

- Vesting Tentative Tract Map 8659 (SUB22-008)
- Conditional Use Permit 24-002
- Site Plan Design Review 24-003
- Specific Plan Amendment 24-001
- Consistency Determination (CD) 24-004
- Master Sign Program Amendment (MSP) 24-001
- Development Code Amendment (DCA) 24-001

The Parties recognize the difficulty of predicting the precise timing and sequencing of all Project development, but also recognize the importance of ensuring that key Project elements are delivered in a sequence that meets the needs of the City and the public. The intent of the Parties is to ensure

the Project proceeds with reasonable diligence while providing the necessary flexibility for the Developer to respond to economic conditions and development opportunities, engage with future partners, lenders and builders, and go through the permitting process for the full buildout in a feasible, commercially reasonable manner. To achieve these purposes, this Agreement establishes certain sequencing parameters that ensure that key Project elements including infrastructure, commercial uses, parks, and affordable housing units are delivered in an orderly and logical manner, while also providing the Developer sufficient flexibility to respond to market conditions and development opportunities to ensure the successful buildout of the Project as a whole.

H Reserved

I. Reserved

J. This Agreement will promote and encourage the development of the Project by providing the Developer and its creditors with a greater degree of certainty of the Developer's ability to expeditiously and economically complete the development effort for the Project, and the parties agree that the consideration to be received by the City pursuant to this Agreement and the rights secured to the Developer hereunder constitute sufficient consideration to support the covenants and agreements of the City and the Developer. By entering into this Agreement, the City desires to allow the Developer to design, apply for, and if approved to develop the Project pursuant to this Agreement, the land-use ordinances, rules, regulations and policies applicable on the "Effective Date," as defined in Section 3 below, and to vest in Developer, to the fullest extent possible under the law, all possible development entitlements in order to complete the Project.

K. The Project and the terms and conditions in this Agreement have been extensively reviewed and considered by the City and its officers, agencies and departments. That proposed use has been found to accommodate the City's recommendations and suggestions in order to protect the public's interest and to enhance the desirability, from the public's perspective, of the Project.

L. The City Council has also found that the Project and this Agreement are in the public interest and will provide substantial public benefits and help attain certain public objectives without limitation: (i) providing affordable housing to families and individuals; (ii) increasing the number of community parks and plazas for public recreation and discourse; (iii) providing improved bike lanes with increased safety; (iv) enhancing pedestrian and bicycle connectivity; (v) expanding the urban forest and providing carbon sequestration; (vi) providing commercial development to reduce food deserts and providing commercial activity to meet City and Regional goals; (vii) providing the City with additional revenue in the form of increased real property taxes and sales tax; (viii) providing a land use compatible with the physical nature of the project site and the surrounding area; and (ix) is in the public's interest.

M. As required by Government Code section 65867.5(c), the City Council has also found the provisions of this Agreement are consistent with the City's General Plan and the INSP.

N. The City conducted duly noticed public hearings on this Agreement pursuant to Government Code section 65867 and Livermore Development Code sections 9.04.040 and 9.04.050 and found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in the City's General Plan and Livermore Development Code.

O. This Agreement was adopted by ordinance of the City Council on _____, 2024, and approved upon a second reading on _____, 2024, after notice and public hearings before the Planning Commission and City Council, and after City Council adoption/approval/certification of the Isabel Crossing and Not Net Loss Specific Plan Amendment Project EIR Addendum, CEQA Guidelines Section 15182 Exemption, and/or streamlining via CEQA Guidelines Section 15183 and the Final SEIR certified for the INSP and the Mitigation, Monitoring, and Reporting Program approved for the INSP, all in accordance with the California Environmental Quality Act, Public Resources Code section 21000 *et seq*.

NOW, THEREFORE, the City and Developer hereby agree that the aforementioned recitals are true and correct and are incorporated by reference as fully set forth below, and further agree as follows:

1. The Property. The Property which is the subject of this Agreement is described in Recital C above and Exhibit A, attached hereto.

2. The Project. The Project is described in Recitals E and F above, and Exhibit B, for a mixed residential and commercial development.

3. Effective Date. The effective date of this Agreement ("Effective Date") is the later of (a) thirty (30) days after the date the Ordinance approving this Agreement is adopted by the City Council and attested by the City Clerk, or (b) if a referendum petition is timely and duly circulated, filed and qualified by the Elections Official and thereafter ordered to election by the City Council, then the date the election results on the ballot measure by City voters approving this Agreement are certified by the City Council in the manner provided by the Elections Code. This Agreement shall be executed by the City within ten (10) days after the Effective Date and recorded as provided in Government Code section 65868.5.

4. Term. The duration of this Agreement is for a term of twenty (20) years, commencing on the Effective Date, and terminating on its anniversary date twenty (20) years later ("Term"). The term may be amended or extended as set forth in Section 12 and consistent with the Development Agreement Statutes and the Livermore Development Code by the written consent of the Parties; or, (ii) as set forth in Section 13. If the Agreement is not amended, extended, terminated, or cancelled as set forth in either Section 12 or Section 13 consistent with the Development Agreement Statutes and the Livermore Development Code, then this Agreement shall terminate on its 20th anniversary date without further action by the Parties.

5. Definitions. In addition to the terms defined elsewhere in this Agreement, Exhibit H contains defined terms that apply to this Agreement and to all Exhibits.

6. Exhibits. The following exhibits are attached to and incorporated into this Agreement:

   Exhibit A: Legal Property Description

   Exhibit B: Development Plans

   Exhibit C: Master Project Infrastructure Timing, Repair and Replacement and Impact Fee Special Provisions

Exhibit D: Affordable Housing

Exhibit E: Commercial Uses

Exhibit F: City Fee Schedule

Exhibit G: Form of Estoppel Certificate

Exhibit H: Definitions

Exhibit I: Fee Creditable Improvements

Exhibit J: Community Facilities District (CFD) Provisions

Exhibit K: INSP Figure 2.3, Subarea Diagram

Exhibit L: Core Vested Regulations

Exhibit M: Reserved

Exhibit N: Reserved

Exhibit O: Affordable Housing Template Agreement

Exhibit P: Public Art

Exhibit Q: Financial Contributions

Exhibit R: Law Enforcement Assets

Exhibit S: Proposed CFD Eligible Infrastructure

7. Vested Development Rights. As set forth in this Agreement, and during the term of this Agreement, the Developer has the right to develop and use the Property in accordance with the approved Project Approvals for the Project identified in Exhibit B and the following that regulate the uses for the Property, including its density and intensity of use, height and size of buildings, and the provisions for the reservation and dedication of land for public purposes, all as required by Government Code section 65865.2 for this Agreement:

   a. The City's General Plan, Isabel Neighborhood Specific Plan, and the Livermore Development Code in effect on the Effective Date. For reference, the INSP Land Use Designation from the General Plan, and the Land Use Map and Development Standards from the Isabel Neighborhood Specific Plan are attached hereto as Exhibit L ("Core Vested Regulations").

   b. In addition, all other City policies, ordinances, resolutions, rules, regulations and standards applicable to development or use of the Property on the Effective Date, except that Developer shall:

      i. Pay the processing and development impact fees that are in effect and

applicable citywide at the time the fees are paid by Developer to City. Payment for said fees shall be made when the City issues any building permits for the Project. As provided in Section 8(e) the Developer is not required to pay any new development impact fees enacted after the Effective Date unless they qualify as a Permitted Change in Applicable Regulations, but for those development impact fees enacted by the City on or before the Effective Date and identified in Exhibit F (City Fee Schedule") the Developer shall pay the corresponding amount for those fees that are in effect on the date the fees are paid;

ii. Comply with Building Code requirements that are in effect and applicable citywide at the time when the permits for building construction are issued by the City;

iii. Comply with construction and technical building standards or specifications for public improvements that are in effect and applicable citywide at the time when the permits for public improvement construction are issued by the City;

iv. Comply with changes in City laws, regulations, plans or policies applicable citywide, that are found by the City Council, based on substantial evidence, to be necessary to protect members of the public from a condition dangerous to their health or safety;

v. Comply with a change in City law, regulations, plans or policies that is one or more of the following:

1. Specifically mandated by state or federal law, or by any regional governmental agency that has legal authority over the City under state law or a joint powers agreement; or

2. A result of or in response to state or federal law, or regional agency action, made necessary in order for the City to avoid losing or not receiving substantial funding or other substantial public benefits or facilities that would be available to the City only if it makes such a change; or

3. Specifically mandated by, or necessary for compliance with or implementation of the terms of any permit, entitlement or other authorization necessary for the development of the Property issued or granted to the City, County and/or Developer by any federal, state or regional agency; and,

4. Comply with the Project conditions of approval, including all required mitigation measures from subsequent environmental review associated with, for all subsequent Project approvals that are consistent with this Agreement ("Subsequent Project Approvals").

c. Developer acknowledges pursuant to and consistent with Government Code section

65866, this Agreement does not prevent the City in subsequent actions applicable to the Property, from applying new rules, regulations, and policies which do not conflict with the rules, regulations, and policies applicable to the Property as set forth herein, nor shall this Agreement prevent the City from denying or conditionally approving a subsequent development project application on the basis of these existing or new rules, regulations, and policies.

d. Developer further acknowledges that execution of this Agreement by the City does not constitute approval of any required permits, applications, or allocations, and in no way limits the discretion of the City in the permit, allocation, and approval process in accordance with the limitations set forth herein.

e. City agrees that Developer, in Developer's sole discretion may reconstruct the Project, or any portion thereof, within the Term of this Agreement should it become necessary or desirable due to natural disaster, changes in seismic requirements, acts of God, acts of terrorism, or damage to work in progress by reason of fire, floods or other casualties, commercial infeasibility, or functional obsolescence. Any such reconstruction shall be subject to the Core Vested Regulations, and shall comply with the Project Approvals or subsequent Project Approvals, as applicable to the Project of portion thereof to be reconstructed, and shall comply with the technical building codes existing at the time of such reconstruction.

8. Developer Obligations.

a. The Developer agrees to all the terms, conditions, and covenants in connection with the Project that are set forth in the conditions of approval for the Entitlements as well as the Subsequent Project Approvals.

b. Subsequent to the approval of the Vesting Tentative Tract Map 8659 the Developer will record large lot Final Maps for all Master Planning Areas in accordance with the requirements of the Subdivision Map Act (California Government Code section 66410, et seq.) and the Livermore Development Code. Following any transfers of Master Planning Areas to successors who would construct the Planning Areas in accordance with the terms of this Agreement, said successors would prepare in-tract improvement plans and record small lot Final Maps or Condominium Maps for the respective Planning Areas.

c. As required by the Livermore Development Code and the Subdivision Map, the City's approval of Vesting Tentative Tract Map 8659 is conditioned upon the Developer constructing improvements and making dedications to the City to ensure the parcels created:

i. Are provided with adequate public services and utilities, including any appropriate cable television services, to meet the needs of future residents or users;

ii. Are of adequate design in all respects in compliance with this Development Code;

iii. Act to mitigate any potential environmental impacts specified in the Environmental Impact Report (EIR) or by other means; and

iv. Provide for proper grading and erosion control, including the prevention of sedimentation or damage to off-site property.

d. Developer shall provide adequate security for all public improvements required by Vesting Tentative Tract Map 8659 ("Master Project Infrastructure") when acquiring the City's approval for said map, and then prior to the issuance of any building permit as set forth in Exhibit C, Timing and Processing, construct such Master Project Infrastructure. Nothing in this Agreement shall prevent Developer from transferring the Developer obligations herein to a third-party developer or builder, in accordance with Section 10. To the extent any provision of this Agreement conflicts with the Conditions of Approval for the Vesting Tentative Tract Map, the Conditions of Approval shall control. (*BIA v. Patterson* (2008) 162 Cal.App.4th 1068.)

e. Developer shall pay all applicable fees as set forth in Section 7(b)(1) in the amounts that are in effect when the payment is made. A copy of the processing and development impact fees applicable on a citywide basis are attached as Exhibit F ("City Fee Schedule".) The amount specified for each processing and development impact fee reflects the amount in effect as of the Effective Date and are simply included for reference, and the Developer shall pay the amount corresponding to those fees that are in effect when the payment is made. Unless new Development Impact Fees that are adopted by the City after the Effective Date validly qualify as a Permitted Change in Applicable Regulations, they shall not apply to the Project or to the development of the Project, and shall not be a payment obligation of Developer, without Developer's prior written consent.

f. Developer shall use good faith efforts to the maximum extent allowed by law to require all persons and entities providing bulk lumber, concrete, structural steel and pre- fabricated building components, such as roof trusses, to be used in connection with the construction and development of, or incorporated into, the Project, to: (a) obtain a use tax direct payment permit; (b) elect to obtain a subcontractor permit for the job site of a contract valued at Five Million Dollars ($5,000,000) or more; or (c) otherwise designate the Property as the place of use of material used in the construction of the Project in order to have the local portion of the sales and use tax distributed directly to the City instead of through the county-wide pool. Developer shall instruct each of its subcontractors to cooperate with the City to ensure the full local sales/use tax is allocated to City. To assist City in its efforts to ensure that the full amount of such local sales/use tax is allocated to the City, Developer shall:

i. Provide City with an annual spreadsheet, which includes a list of all subcontractors with contracts in excess of the amount set forth above, a description of all applicable work, and the dollar value of such subcontracts. City may use said spreadsheet to contact each subcontractor who may qualify for local allocation of use taxes to the City.

ii. Include in all contracts with a general contractor, project manager for construction, and all subcontractors the following language:

"The Developer is requiring that all contractors and subcontractors on the jobsite participate in directing local tax to the City of Livermore wherever possible and consistent with legal requirements. This direction is not expected to increase the contractor's tax liability; however, it will increase the percentage amount of tax revenue the City will receive. The Developer is requiring that the contractors and subcontractors work together with the City officials and consultants to achieve an equitable outcome.

The Developer will require that the contractors and subcontractors exercise their option to obtain a California Department of Tax & Fee Administration construction site sub permit for the jobsite and allocate all eligible use tax payments to the City of Livermore. Prior to any construction on-site, the Developer will require that the contractor and subcontractor provide the City of Livermore with either a copy of their sub-permit that shows their CDTFA account number or a signed statement that sales and use tax does not apply to their portion of the project. The Developer will provide the City and their consultant with a list of subcontractors associated with the project."

g. The precise timing and sequencing of Project development is influenced by numerous factors such as market orientation and demand, interest rates, absorption, completion, and other economic and practical factors, some of which are not within the Developer's control. Nevertheless, the Developer understands the INSP's need for the Developer to deliver certain key Project elements to the City and the Livermore community as part of the consideration for this Agreement to ensure the development of a complete neighborhood contemplated by the INSP for residential and commercials places for residents and workers and easy well-connected access to everyday services. Therefore, the Developer agrees to all the terms, conditions, and covenants for the Project that are set forth in the Entitlements and the below Exhibits, and further agrees to construct and complete the following Project elements consistent with the schedule and/or sequencing for performance for each as set forth in corresponding Exhibits.

h. The City has extensively reviewed the terms and conditions of this Agreement and, in particular, has specifically considered and approved the impact and benefits of the Project upon the regional welfare. The terms and conditions of this Agreement have been found by the City to be fair, just, and reasonable, and to provide appropriate benefits to the City. This Agreement and the pursuit of the Project will serve the best interests, and the public health, safety, and welfare of the residents and invitees of the City and the general public. This Agreement will help ensure a desirable and functional community environment; provide effective and efficient development of public facilities, infrastructure and services in the vicinity of the Property; help maximize effective utilization of resources within the City, increase City tax revenues; and provide other substantial public benefits to the City and its resident by achieving the goals and purposes of the Government Code, the General Plan, the INSP and Livermore Development Code, which particular benefits include, without

limitation: (i) the development of a mixed-use multi-family housing development with significant dedicated affordable housing, including for-sale affordable units; (ii) provision of new housing that helps meet State and regional housing production goals; (iii) provision of substantial public revenue in the form of impact fees and increased real property and sales tax; (iv) the provision of a land use compatible with the physical nature of the Property and the surrounding area; (v) new infrastructure for alternative transportation including dedicated bicycle lanes, and other public improvements; and (vi) financial contributions from Developer to the City's Social Opportunity Endowment Fund, Community Benefit Fund, and Springtown Open Space Improvements. The community benefits of the Agreement are set forth further in the below Exhibits. The Developer agrees to all the terms, conditions, and covenants in connection with the Project that are set forth in the following Exhibits:

i. Exhibit C Master Project Infrastructure and Site Improvements sets for the infrastructure improvement requirements and the timeframes in which the Developer shall complete them.

ii. Exhibit D Affordable Housing Obligations sets forth the Developer's obligations for construction of affordable housing within the Project site.

iii. Exhibit E Commercial Uses sets forth the Developer's obligations for constructing a Temporary Commercial Activation site and for making a good faith effort to enter into lease agreements for specified commercial uses within the Project site.

iv. Exhibit J Community Facilities District (CFD) Provisions sets forth the Developer's obligations with respect to formation of a New Facilities CFD and Maintenance CFD.

v. Exhibit P Public Art sets forth the Developer's obligations to prepare a comprehensive Art Master Plan that covers the entire project site and provides for how the Developer's Public Art obligation for the project will be met.

vi. Exhibit Q Financial Contributions sets forth cash contributions the Developer shall pay, in addition to other consideration provided by Developer for this Agreement, to the Social Opportunity Endowment Fund, Community Benefit Fund, Public Art Fund, and to City Park Improvements.

i. The City and Developer shall enter into an Affordable Housing Agreement, the form of which is attached hereto as Exhibit O.

j. As permitted by Government Code section 65865.2, Developer shall commence and complete the "Master Project Infrastructure" as set forth in Exhibit C.

k. The Developer and any Successor(s) shall construct the Project in accordance with this Agreement and the Project Approvals for the Project identified in Exhibit B, including with respect to the approved architectural design, landscape design, site design, residential density, non-residential FAR and coverage, and any other design

feature, or development standard, subject to the Subsequent Approvals provisions, below.

9. City Obligations.

a. City agrees to all the terms, conditions, and covenants in connection with the Project that are set forth in the conditions of approval for the Entitlements as well as the Subsequent Project Approvals.

b. Subsequent Approvals for the Project

i. In connection with any future discretionary City approvals required by code for the Project, including approvals that only apply in one or more Planning Areas described in Recital F and depicted in Exhibit B, without limitation, Site Plan Review and Design Review (collectively "Subsequent Approvals"), if the Director or his or her designee determines that the request for a Subsequent Approval for Site Plan Review or Design Review substantially conforms with Exhibit B, the Site Plan Review or Design Review approval may be issued by the Director on behalf of the City in accordance with Livermore Development Code Section 9.07.030.B. Otherwise, the Director may refer a Site Plan Review or Design Review Subsequent Approval request to the Planning Commission. The City shall accept for processing and timely review and act on all applications for Subsequent Approvals in as expeditious a manner as is reasonably possible.

ii. The City acknowledges that Developer may require minor adjustments to the configuration or size of individual lots or parcels within a Planning Area in the VTTM, or infrastructure elements depicted thereon, to be modified from that shown on the VTTM in any Final Maps, which may be necessitated by changes occasioned by the final permitting and design of a Planning Area within the Project that would come after this Agreement. To facilitate development of the Project, the Parties agree that the size and configuration of the proposed lots or parcels and dimensions and/or locations of improvements within a Planning Area may be so adjusted at the Developer's discretion, subject to the provisions of and the approvals required by the Subdivision Map Act and the Livermore Development Code, and provided that the aggregate total density and intensity of the Project Site are not increased, and the permitted uses and design thereon are not substantially modified from those provided in the Project Approvals, and the parcels and lots and improvements thereon are in accordance with the Applicable Rules that apply to project upon approval including but not limited to INSP, Citywide Design Standards and Guidelines, Development Code and Municipal Code regulations., including without limitation, all minimum lot size, lot configuration, set-back and construction standards set forth therein.

iii. If the Director or his/her designee finds that a proposed amendment or modification to the Project or any portion thereof does not conflict with any material terms of this Agreement, Applicable Law, and state law requirements, the amendment shall be determined to be an "Administrative

Project Amendment" and the City Manager, the Director, or a designee may approve the Administrative Project Amendment on behalf of the City without notice and public hearing. The Parties herein agree and recognize that this assessment by the City is objective in nature and therefore an Administrative Project Amendment shall be a ministerial agency approval.

1. Without limiting the generality of the foregoing, lot line adjustments, minor increases or decreases in the intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, minor variations in the location of structures that do not substantially alter the design concepts of the Project, swapping out of building materials for replacement materials with similar appearance and quality, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project or Property legal description shall be treated as Administrative Project Amendments.

iv. The Developer reserves the right to apply to the City for permits to develop portions of the Project in a manner which may be materially inconsistent with the Project as described herein and approved with the Project Approvals ("Major Project Modifications"). In such event, such portion of the Project shall be reviewed pursuant to the rules, regulations, and procedures of the City in effect at the time the Developer makes application to the City for such Major Project Modifications, including, without limitation, at the City's discretion, to require an amendment to this Agreement or a new development agreement for the affected portions of the Project. Nothing herein shall be interpreted to require the City to approve a Major Project Modification.

v. As a result of constructability or financing issues, the Developer may reduce the quantity of Project residential units as follows, as approved by the Director:

1. Planning Areas S1 and C2-A. The Developer or any Successor(s) may reduce the quantity of units in Planning Areas S1 and C2-A, if the following findings can be made:

A. The Project shall provide a density of at least 50 dwelling units per acre in Planning Areas S1 and C2-A.

B. The Project shall provide at least 1,236 total housing units, which is collectively the minimum required in Isabel Neighborhood Specific Plan Subareas 3b and 3c.

C. The quantity and affordability levels of all affordable housing units in all Planning Areas shall remain as described in this Agreement and the Project Plans (Exhibit B) and shall not be reduced or diminished.

D. The building footprints, architectural style, and exterior design of each building shall substantially conform to the Project Plans (Exhibit B) and shall not be modified unless approved by the City under this Section of the Agreement.

2. All Other Planning Areas. The Developer or any Successor(s) may reduce the quantity of units in any other Planning Area, if the following findings can be made:

A. The quantity of units to be reduced in any Planning Area shall not exceed five percent (5%) of the total quantity of approved units for that Planning Area.

B. The Project shall provide at least 1,236 total housing units, which is collectively the minimum required in Isabel Neighborhood Specific Plan Subareas 3b and 3c.

C. The quantity and affordability levels of all affordable housing units in all Planning Areas shall remain as described in this Exhibit and the Project Plans (Exhibit B) and shall not be reduced or diminished.

D. The building footprints, architectural style, and exterior design of each building shall substantially conform to the Project Plans (Exhibit B) and shall not be modified unless approved by the City under this Section of the Agreement.

vi. The City has conducted extensive environmental review of the Project and has certified an Environmental Impact Report, a Supplemental Environmental Impact Report, and an Addendum that fully analyze the potential environmental impacts of the Project consistent with the requirements of CEQA. The City intends that future discretionary approvals for the Project, to the fullest extent permitted by law, shall be subject to CEQA's subsequent review provisions under Public Resources Code, Section 21166 and CEQA Guidelines, Sections 15162 and 15164, whereby any additional environmental review for such future discretionary approvals shall only be required where "major revisions" to the prior EIRs for the Project are required, as defined by CEQA.

c. Community Facilities District

i. The Property, or a portion thereof, is located within City of Livermore Community Facilities District No, 2016-2 (the "Existing CFD"). In accordance with this Section 9(c), and the Community Facilities District Financing Parameters set forth in Exhibit J attached hereto, Developer desires to form a new Community Facilities District with respect to the Project (the "New Facilities CFD") for the Property pursuant to the Mello Roos Community Facilities Act of 1983, California Government Code, Sections 53311 et seq., as the same may be amended from time to time, ("Mello Roos Act"), that, among other things, refunds a portion of the outstanding bonds of the Existing CFD, and pays the prepayment penalty for those bonds, in accordance with Section 53313.5(g) of the Mello Roos Act, thereby allowing for the release of the lien of the Existing CFD from the Property, and finances all of the facilities and improvements and fees described in Exhibit J, attached hereto (the "Community Facilities District (CFD) Provisions") and Exhibit S, attached hereto (the "Proposed CFD Eligible Infrastructure").

ii. At such time during the term of this Agreement as Developer submits a written request to the City Manager to establish the New Facilities CFD, the City Manager shall notify Developer whether the City is willing to establish the New Facilities CFD in accordance with Section C of Exhibit J or prefers the Developer to work with a joint powers authority to establish the CFD in accordance with Section D of Exhibit J, provided, however, that, at Developer's election, Developer shall have the right to pursue the adoption of a CFD with a joint powers authority instead of the City.

iii. The Developer and the City will cooperate to provide for annexation of the Property to the Isabel Maintenance CFD (as defined in Exhibit J) in accordance with Section B of Exhibit J.

d. Upon satisfaction of all Developer's and the subsequent owners' obligations related to the Property, or a portion of the Property, the City shall record a Notice of Termination for each affected parcel in a form satisfactory to the City Attorney in the Office of the Alameda County Recorder.

e. The City shall refund Developer Transferable Development Credits and Traffic Impact Fees as required pursuant to Exhibits C, E, and I.

10. Binding Effect; Recordation; Assignment.

a. This Agreement is binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to this Agreement as set forth in Government Code section 65868.5

b. This Agreement shall:

i. be recorded in the office of the County Recorder;

ii. run with the land; and, shall

iii. be binding upon and inure to the benefit of the heirs, administrators, assigns, executors, and successors in interest and in title to the Property and all portions thereof.

c. Every contract, deed, or other instrument hereafter executed covering or conveying a portion of the Property shall be held conclusively to have been executed, delivered and accepted subject to the covenants and restrictions in this Agreement, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless the City expressly terminates the Agreement as to the portion of the Property transferred as set forth in Section 13.

d. Developer shall have the right to sell, transfer, or assign the Property or any portion or Planning Area thereof (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code, Sections 66410, et seq., as the same may be amended from time to time) to any person, partnership, joint venture, firm, or corporation at any time during the Term of this Agreement, together with the rights granted to and obligations imposed upon the Property pursuant to this Agreement and as set forth in Section 15. Developer shall give, prior to closing on any such transfer, written notice to the City of its intention to assign or transfer any of its interests, rights or obligations under this Agreement and a complete disclosure of the identity of the assignee or transferee, including copies of the Articles of Incorporation in the case of corporations and the names of partners in the case of partnerships. Any failure by Developer to provide said notice shall be curable in accordance with the provisions of Section 20. Any successor to Developer that owns or otherwise holds a controlling property interest and is assigned rights, obligations and requirements under this Agreement for only a portion of the Project or a Planning Area(s) that is less than the entire Property shall only have the rights, obligations and requirements of this Agreement that are, by its express terms, applicable to the Planning Area(s) or portions thereof of the Project owned or otherwise controlled by that successor of Developer.

e. Subject to the notice requirements herein, where the Developer sells or otherwise transfers title to any portion of the Property that includes Master Project Infrastructure, as described in Exhibit C ("Master Project Infrastructure Timing, Repair and Replacement and Impact Fee Special Provisions"), that subsequent owner and Developer shall be jointly and severally liable for any obligations under this Agreement as to that portion of the Property, unless Developer is released by City, which release shall not be unreasonably withheld, so long as the subsequent owner provides City with security equivalent to any security previously provided by Developer to secure performance of its obligations hereunder, if any.

f. Subject to the notice requirements herein, where the Developer sells or otherwise transfers title to any portion of the Property that includes one or more Planning Areas but does not include Master Project Infrastructure, so long as the subsequent owner provides City with security equivalent to any security previously provided by Developer to secure performance of its obligations hereunder, if any, City shall release Developer from any further obligations or requirements under this Agreement with respect to the construction of improvements within those transferred Planning Areas.

g. The provisions of this Agreement shall constitute covenants which shall run with the land comprising the Property for the benefit thereof and as a burden thereon, and the burdens and benefits hereof shall bind and inure to the benefit of all assignees, transferees, and successors to the Parties hereto.

11. Mortgagee Protections.

a. Developer shall have the same right to encumber Developer's right, title and interest in, to and under this Agreement and the Property that Developer would have absent this Agreement, pursuant to one or more Mortgages, provided that each such Mortgage is given for the purpose of securing funds to be used for financing the acquisition of the Property or any portion thereof, the construction of improvements thereon, and any other expenditures reasonably necessary and appropriate to develop the Property.

b. Except as otherwise set forth herein, all of the provisions contained in this Agreement shall be binding on and for the benefit of any person who acquires title to the property or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination or expiration or other involuntary transfer under a Mortgage.

c. The City hereby agrees to cooperate in including in this Agreement by suitable amendment from time to time any provision which may reasonably be requested by any proposed Mortgagee for the purpose of allowing such Mortgagee reasonable means to protect or preserve the lien and security interest of the Mortgage hereunder as well as such other documents containing terms and provisions customarily required by Mortgagees (taking into account the customary requirements of their participants, syndication partners or ratings agencies) in connection with any such financing. The City agrees to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to effectuate any such amendment; provided, however, that any such amendment shall not in any way materially adversely affect any rights of any Party under this Agreement. If there is any conflict between this Section and any other provision contained in this Agreement, this Section shall control. Nothing herein is intended to or shall require the City to approve any amendments to this Agreement unrelated to what is reasonably necessary to enable a Mortgagee to appropriately protect its lien or security interest, nor shall the City be required to take any action that may risk the priority of this Agreement as an encumbrance against the Property through the Term of this Agreement.

d. If the City receives notice from a mortgagee requesting a copy of any notice of default given hereunder and specifying the address for services thereof, and the said mortgagee has recorded a copy of such request in the official records of Alameda County in the manner required under Civil Code, Section 2924b with respect to Requests for Notices of Default, then the City shall deliver to such mortgagee, concurrently with service thereon to the applicable Party, any notice given to the Party with respect to any claim that such Party has not complied in good faith with the terms of this Agreement or has committed an event of default. Each mortgagee shall have the right, but not the obligation, for a period of ninety (90) days after the

receipt of such notice to cure or remedy, or to commence to cure or remedy, the claimed default or act of noncompliance set forth in the notice. If the default is of a nature which can only be remedied or cured by such mortgagee upon obtaining possession, such mortgagee may, but is not obligated to seek to obtain possession with diligence and continuity through foreclosure, a receiver or otherwise, and may, but is not obligated to, thereafter remedy or cure the default or noncompliance within thirty (30) days after obtaining possession. If any such default or noncompliance cannot, with diligence, be remedied or cured within such thirty (30) day period, then such mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default or noncompliance if such mortgagee commences that cure during such thirty (30) day period, and thereafter diligently pursues and completes such cure.

12. Amendment or Extension. As set forth in Development Agreement Statutes, including Government Code section 65868, this Agreement may be amended by the Parties, including amendments of, or extensions to, the Term set forth in Section 4 consistent with the procedures set forth in the Development Agreement Statutes and the Livermore Development Code, as they are amended from time-to-time. Developer shall send to the City a notice specifying the requested amendment or extension, and obtain the City's written consent, before submitting an application to the City to amend or extend this Agreement pursuant to the procedures set forth in the Development Agreement Statutes and the Livermore Development Code.

13. Cancellation; Termination.

    a. This Agreement may be canceled or terminated, in whole or in part, as follows:

        i. By formal application by any Party to cancel or terminate this Agreement as set forth in and as is consistent with the Development Agreement Statutes, including Government Code section 65868.

        ii. Upon the occurrence of any of the following events:

            1. Expiration of this Agreement's Term pursuant to Section 4;

            2. The release of the Developer, or a portion of the Property, from this Agreement as set forth in Sections 10(d) through 10(f), which cancellation or termination shall only be as to the Parties and as to the portion of the Property transferred as specified;

            3. The dedication of any portion of the Property to a public agency provided the termination shall only be as to the dedicated portion of the Property; and

            4. The conveyance of any portion of the Property to a homeowner's association for which all improvements required by the Project Approvals and Subsequent Project Approvals for that portion of the Property have been

completed or guaranteed to the City's satisfaction, but the termination shall only be as to that portion of property so conveyed.

b. Cancellation or termination of this Agreement as provided in this Section shall not constitute termination of any Project Approvals or Subsequent Project Approvals approved by the City for the Property prior to the date of cancellation or termination.

c. In the event this Agreement is terminated, neither party shall have any further rights or obligations hereunder except for those obligations of Developer set forth in Section 16 (No Damages Relief), Section 24 (Legal Actions), and Section 25 (Attorneys' Fees), except that the provisions of this Agreement that are specified to survive termination of this Agreement shall run with the land in perpetuity and remain in full force and effect following such termination.

d. The cancellation or termination of this Agreement, in whole or in part, pursuant to this section shall be processed by the City consistent with the requirements in the Development Agreement Statutes.

14. Reserved.

15. Release Upon Transfer.

a. *As to Developer upon Transfer*. Upon the sale, transfer, or assignment (collectively "Transfer") of Developer's title to any portion of the Property, then Developer and the subsequent owner of the portion of the Property transferred are jointly and severally liable for the Developer's obligations under this Agreement as to that portion of the Property transferred unless Developer is released by City as provided in this subsection, which release shall not be unreasonably withheld, and which release must be conditioned on the subsequent owner providing the City with security equivalent to any security previously provided by Developer to secure performance of the obligations hereunder for the portion of the Property transferred. Developer shall be released by City from its obligations under this Agreement with respect to the portion of the Property transferred provided: (i) Developer (or transferee) is not in default of this Agreement at the time of the transfer; (ii) Developer has provided prior written notice of the transfer to the City, subject to cure under Section 20, below; and, (iii) with respect to the transfer of any parcel or lot of the Property that has not been fully developed as contemplated by the Project, the intended transferee executes and delivers to the City a written assumption agreement in a form acceptable to the City in which (aa) the name and address of the transferee is set forth, and (bb) the transferee expressly assumes all obligations of the Developer under this Agreement as to the portion of the Property to be transferred. Failure to deliver a written assumption to the City prior to transfer of the portion of the Property to the subsequent owner shall not negate, modify, or otherwise affect the liability of any transferee or the Developer pursuant to the terms and conditions of this Agreement.

b. *As to Property transferred.* Upon a Transfer, as defined in subsection (a) above, of title to any portion of the Property, the subsequent owner of the portion of the Property transferred may request release of that portion of the Property from the

obligations under this Agreement, which release shall not be unreasonably withheld, provided that: (i) Developer (or transferee) is not in default of this Agreement at the time of the transfer; (ii) Developer has provided prior written notice of the transfer to the City; and, (iii) with respect to the transfer of any parcel or lot of the Property that has not been fully developed as contemplated by the Project, the intended transferee executes and delivers to the City a written assumption agreement in a form acceptable to the City in which (aa) the name and address of the transferee is set forth, and (bb) the transferee expressly assumes all obligations of the Developer under this Agreement as to the portion of the Property to be transferred. Failure to deliver a written assumption to the City prior to transfer of the portion of the Property to the subsequent owner shall not negate, modify, or otherwise affect the liability of any transferee or the Developer pursuant to the terms and conditions of this Agreement.

16. No Damages Relief. The parties acknowledge that neither Party would have entered into this Agreement had it been exposed to damage claims from the other Party for any breach thereof. As such, the Parties agree that in no event shall either Party be entitled to recover damages against the other Party for breach of this Agreement. To the extent permitted by law, specific enforcement of this Agreement, including specific performance of Developer's payment obligations set forth in Section 8 and Exhibit F, and the City's Traffic Impact Fee (TIF) and Transferable Development Credit (TDC) obligations set forth in Exhibit F, is the proper and desirable remedy.

17. Subsequent Legislation.

    a. To the fullest extent permitted by law, any initiatives, referenda, moratoria, or amendments to the Core Vested Regulations adopted or enacted after the Effective Date that contain "slow/no growth" measures, limit or in any way control the provision of public services or utilities to the Property, or which by their terms are intended to or by operation have such effect, shall have no application to the Project.

        i. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over the parties' agreement, it is the Parties' intent to avoid that result by acknowledging, that unless provided for in this Agreement, Developer shall have the right (without obligation) to develop the Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment, subject to the terms, requirements and conditions of the Entitlements and this Agreement. Developer will use its best efforts, in accordance with its own business judgment and taking into consideration market conditions and other economic factors influencing Developer's business decision, to commence or to continue development, and to develop the Project in a regular, progressive, and timely manner in accordance with the terms, requirements and conditions of the Entitlements and this Agreement. Nothing in this subsection concerning the expectations set by the Parties for the timing of development in response to *Pardee Construction Co.*

v. City of Camarillo, 37 Cal.3d 465 (1984) is intended, nor shall it be construed, to relieve Developer from any time related requirements set forth in the schedules of performance for specified Project elements, the Subdivision Map Act, the Project Approvals, or the Subsequent Project Approvals.

b. The Parties agree that the terms and conditions in this Agreement, and the Financial Contributions and amenities provided by Developer to the City for this Agreement, were negotiated based upon the specific Project contemplated by the Agreement and in conjunction with housing law in effect at the time of Project approval. In the event the Developer or any Successor(s) seek to utilize additional housing laws adopted by the State of California to alter, amend, or terminate the applicable development standards, approved uses, or the material terms of this Agreement for Planning Areas C1-B, C2-A, S1, C1-C, C2-C or TS as of the Effective Date of this Agreement ("Commercial Block Standards") which were specifically negotiated to ensure the Project in the Isabel Neighborhood Specific Plan Area has the appropriate mix of uses for a complete neighborhood, then the specific changes will be evaluated by the City pursuant to provisions of Section 9(b), regarding Subsequent Approvals for the Project, as set forth therein, to determine whether the changes constitute an Administrative Project Amendment, a Major Project Modification, an amendment to this Agreement, or a new development agreement. If the change in state housing law nonetheless enables revisions to Commercial Block Standards in a manner that eliminates the commercial uses, plazas or affordable housing for those areas, then the Developer or any Successor must still deliver the undelivered commercial tenant spaces, affordable units, and plazas to the City as part of any new development agreement and the City may eliminate its Fee Reduction obligations under Section 8 of Exhibit E, Commercial Uses, for the Planning Area in which such changes are sought.

18. Force Majeure.

a. The Term of this Agreement shall be extended by, and the performance by any Parties of their obligations hereunder (other than for payment of money) shall be excused during, any period of "Force Majeure" as hereinafter defined. "Force Majeure" means a delay caused by any war, insurrection, acts of God, acts of public enemy, labor disputes or strikes, labor or materials shortages or embargoes, pandemic, fire, unusual delay in transportation, earthquakes, floods, tornadoes or extreme wind or other adverse weather conditions not reasonably foreseeable by Developer, third party litigation or referenda against the Project, restrictions imposed by other government agencies that reasonably prevent the Project from going forward, or other similar basis for excused performance not within the reasonable control of the Party, excluding financial inability to perform.

b. An extension of time for Force Majeure shall only be for the period of the delay, which period shall commence to run from the time of the notification of the delay by the Party requesting the extension to the other Party. The Party requesting an extension of time under this Section shall give notice promptly following knowledge of the delay to the other Party. If, however, notice by the Party claiming such

extension is sent to the other Party more than thirty (30) days after knowledge of the commencement of the delay, the period shall commence to run upon the earlier of (i) thirty (30) days prior to the giving of such notice or (ii) the date that the other Party received knowledge of the events giving rise to the delay.

c. The Force Majeure provisions in this Section do not apply to any proceedings with respect to bankruptcy or receivership initiated by or on behalf of Developer or, if not dismissed within ninety (90) days, by any third parties against Developer.

19. Annual Review. Review of the Agreement shall be made annually, consistent with Government Code section 65865.1 and Livermore Development Code Chapter 9.04. If, as a result of an annual review, the City finds and determines, on the basis of substantial evidence, that the Developer or successor in interest thereto has not complied in good faith with the terms or conditions of this Agreement, then the City may amend or terminate this Agreement as set forth in Section 12 and Section 13 of this Agreement, respectively.

a. No later than sixty (60) days before the yearly anniversary of the Effective Date, Developer shall submit to the Director, in a form which the Director may reasonably establish, information demonstrating Developer's compliance with this Agreement. The failure of the Developer to timely submit this document shall be a curable breach.

b. On or before the yearly anniversary of the Effective Date, the Director shall make a determination regarding whether or not Developer has complied in good faith with the provisions and conditions of this Agreement. This determination shall be made in writing with reasonable specificity, any determination of non-compliance must be supported by substantial evidence, and a copy of the determination shall be provided to Developer in a manner prescribed in this Section. The failure of the Director of the City to make a determination on Annual Review shall not be considered a breach of the Agreement.

c. In the event the Director makes a finding and determination of non-compliance, Developer shall be entitled to appeal that determination to the Planning Commission in the manner prescribed by Livermore Development Code Section 9.15.

d. If, as a result of this Annual Review procedure, it is found and determined by the Director if no appeal is taken, or the Planning Commission on appeal, that Developer has not complied in good faith with the provisions and conditions of this Agreement, upon receipt of the notice of default, Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) not later than sixty (60) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), by mutual consent of the City and the Developer, provided that Developer shall continuously and diligently pursue such remedy at all times until such default(s) is cured.

e. If the Director finds and determines that Developer has not cured a default pursuant to this Section, the City may elect to terminate or modify this Agreement pursuant to Sections 12 and 13.

f. Developer shall reimburse the City for its actual costs, reasonably and necessarily incurred, to accomplish the required Annual Review.

20. Notice of Default and Right to Cure. Whenever the City delivers any notice to the Developer of the occurrence of a Developer event of default (a "Cure Notice"), the City shall not exercise any remedy available to it unless and until each of the following have occurred: (a) written notice of the Developer event of default is provided to each and every then-existing holder of record of any Security Financing Interest (each an "Encumbrance Holder") that has notified the City in writing of (i) its interest in receiving such a notice, and (ii) its address for the receipt of such notice; and (b) such Developer event of default remains uncured after the expiration of the applicable cure period set forth in Section 19(d), above. The Cure Notice shall be sent simultaneously with any similar notice or notices of a Developer event of default that the City may be required to provide to Developer in this Agreement. An Encumbrance Holder shall have the right and the power to cure any Developer event of default specified in a Cure Notice within the cure periods set forth in Section 19(d), above, and, if such Developer event of default is so cured, this Agreement shall remain in full force and effect. Nothing contained in this Agreement shall be deemed to permit or authorize such Encumbrance Holder to undertake or continue the construction or completion of the improvements (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed in writing the Developer's obligations to the City under this Agreement. The Encumbrance Holder in that event must agree to complete, in the manner provided in this Agreement, the construction of the improvements. Any such Encumbrance Holder properly completing construction of the improvements pursuant to this section shall assume all rights and obligations of Developer under this Agreement and shall be entitled, upon written request made to the City, to a Certificate of Occupancy from the City.

21. Remedies for Default. If a Party is in default under this Agreement, then the non-defaulting Party may pursue one or more of the following courses of action, after 30 days' written notice to the defaulting Party (or such longer period as may be required to cure the default so long as such defaulting Party commences the cure within such 30 day period and diligently pursues the cure to completion): (a) waive the default; (b) in the City's case, pursue administrative remedies including denial or otherwise withholding issuance of building permits, certificates of occupancy or other approvals; (c) pursue judicial remedies; or (d) terminate this Agreement. Any purported default by a party hereunder shall be subject to, and tolled by, any event of Force Majeure (or any other event or circumstance beyond the reasonable control of the party obligated to perform) which prevents such party from performing the act necessary to avoid or cure such purported default. Any such tolling shall end at the termination of the event of Force Majeure or other event or circumstance.

22. Rights and Remedies Cumulative. Except as otherwise provided, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise any right or remedy shall not preclude the exercise, at the same time or different times, of any right or remedy for the same default or any other default.

23. No Litigation. There is no existing or, to the Developer's actual knowledge, pending or threatened litigation, suit, action or proceeding before any court or administrative agency affecting the Developer or the Property that would, if adversely determined, materially and

adversely affect the Developer or the Property or the Developer's ability to perform its obligations under this Agreement or to develop the Project.

24. Legal Action. If the City chooses to defend any third party claim or suit challenging any action taken by the City with regard to this Agreement or any procedure or aspect of the City's approval of the development of the Project, including the environmental review process, the Developer in its capacity as either Developer or owner of the Property agrees to reimburse the City for its reasonable attorney's fees, expert witness fees, and related costs as the City may incur in connection with its retention of outside counsel, and for any award of court costs or fees against the City. The City has the right to choose and retain such legal counsel as the City deems appropriate. After expenses reach $100,000, and each $100,000 thereafter, the Parties will confer to review the status of the litigation and their options for proceeding or settling, and they will negotiate in good faith about how the subsequent expenses will be allocated. The Developer in its capacity as the Developer or owner of the Property shall have no obligation to reimburse the City for costs incurred after the date on which the Developer or owner of the Property gives the City written notice of their decision to settle a case, even if the City does not agree to the settlement.

25. Attorney's Fees. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, each Party shall bear their own attorneys' fees and no attorneys' fees may be awarded to the Party prevailing in the action.

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

27. Notices. The regular and email address of each party for the purpose of all notices permitted or required by this Agreement follows:

To City:
City of Livermore
1052 South Livermore Avenue
Livermore, CA 94550
Attention: Community Development Director
Email: bcsmith@livermoreca.gov

With a copy to:
City Attorney
City of Livermore
1052 South Livermore Avenue
Livermore, CA 94550
Email: cityattorney@livermoreca.gov

To Developer:
Isabel Portola Owner, LLC
Jim Stringer
1875 Century Park East, Suite 1130
Los Angeles, CA 90067
Email: jimstringer@harridgedevelopmentgroup.com

Isabel Portola Owner, LLC
C/O Harridge Development Company 6363

Brad Woomer
Wilshire Boulevard, Suite 600
Los Angeles, California 90048
Email: Brad@harridgedevelopmentgroup.com

With a copy to: Sblend A. Sblendorio
Hoge, Fenton, Jones, & Appel, Inc.
6801 Koll Center Parkway, Suite 210
Pleasanton, California 94566-77077
Email: sblend.sblendorio@hogefenton.com

The written address of either party set forth above may be changed by written notice given not less than five (5) days prior to the date such change is to be in effect. All notices under this Agreement shall be in writing, shall be properly addressed and shall be sent by personal delivery, United States mail (registered, certified, or Express Mail, return receipt requested and postage prepaid), or by overnight courier delivery service. All such notices shall be considered delivered:

(i) if personally delivered, on the date of delivery; (ii) if sent by United States mail in the manner prescribed above, on the date shown on the return receipt for acceptance or rejection; or (iii) if sent by overnight courier delivery service, on the date of delivery or attempted delivery as shown by the written delivery record of such service.

All notices pursuant to this Agreement shall also be transmitted with an email courtesy copy to be sent at the time the written notice is transmitted by personal delivery, U.S. mail, or overnight courier service, and the email courtesy copy shall be transmitted with a delivery receipt requested.

28. No Third Party Beneficiaries. This Agreement is entered only for the benefit of the Parties executing this Agreement, and their respective successors in interest. This Agreement is not for the benefit of any other individual, entity or person. Nothing herein shall be construed to create any right of any third party to enforce this Agreement or to seek any benefit therefrom.

29. Time Is of the Essence. Time is of the essence for each provision of this Agreement for which time is an element.

30. Survival. Upon termination of this Agreement, the following provisions of this Agreement shall survive: Section 16 (No Damages Relief); Section 17 (Subsequent Legislation); Section 24 (Legal Actions); Section 25 (Attorneys' Fees); and Section 37 (Integration; Tolling Agreement; Entire Understanding of the Parties). This Section 30 exists for reference purposes only, and does not alter the scope or nature of the surviving provisions.

31. Estoppel Certificates. Developer may, at any time, request City to respond in writing: (i) whether this Agreement is in full force and effect; (ii) whether this Agreement has been amended or modified, and if so amended, the nature of any such amendments; or (iii) whether to the best of City's knowledge Developer is in default in the performance of any of its obligations under this Agreement, and if in default, the nature of any such default. City shall endeavor in good faith to respond to any such request within thirty (30) days

following the receipt thereof. Developer shall be entitled to one certificate of compliance per year without any fee being assessed by the City. For any additional certificates of compliance requested in a single year, the City may charge the requesting party a reasonable fee related to the actual cost to prepare the additional certificate. The form for the estoppel certificates shall be in substantially the same form as the form attached hereto as Exhibit G. The Parties acknowledge City's production of an estoppel certificate is an administrative function that may be performed by the City Manager or their designee.

32. Titles and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of its provision. References "Sections" are to sections of this Agreement, unless otherwise specifically provided.

33. Applicable Law. This Agreement is governed by and shall be interpreted under and pursuant to the laws of the State of California.

34. Further Assurances. Each Party hereby agrees to perform, or cause to be done or performed, all such further acts, and shall execute and deliver all such further agreements, certificates, instruments, and documents, as such other Party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement.

35. No Obligation to Build Project. The Parties herein acknowledge that it is their mutual intent to ensure that the Project is commenced and developed promptly and in a commercially reasonable manner, provided, however, that this Agreement confers upon Developer the rights and obligations provided herein, but does not impose the affirmative obligation on Developer to actually commence the construction of the Project; Developer may elect not to commence the construction of the Project, in its sole and absolute discretion, and such election shall not breach this Agreement, but once Developer commences construction on any aspect of the Project, then it must be developed in accordance with this Agreement.

36. Severability. If any term, provision, covenant or condition of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect, and shall be valid and enforceable to the fullest extent permitted by law, unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

37. Integration; Tolling Agreement; Entire Understanding of the Parties. This Agreement constitutes the entire understanding and agreement of the Parties with respect to Developer's application to develop the Property, except for the Project Entitlements, the development agreement burdening the Property prior to the execution of this Agreement, and the Tolling Agreement executed by the Parties on June 29, 2023 ("Tolling Agreement"). With respect to the Tolling Agreement, this Agreement shall constitute the City's final and unappealable approval for the Alternative Project contemplated by the Tolling Agreement once its approval is beyond the period where it is subject to a timely legal challenge or referendum, and shall thereby give effect to the waivers, releases and discharges of all claims, demands, obligations, liabilities, causes of action, damages, losses, costs, and expenses against the City related in any way to the Preliminary Application, and

Preliminary Project as those terms are defined in the Tolling Agreement. This section is not intended to modify, and shall not be interpreted to modify, any terms and conditions in the Tolling Agreement, but is intended to effectuate the Developer's waivers, releases and discharges in that Tolling Agreement.

38. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have signed this Development Agreement on the dates indicated below.

DEVELOPER
Isabel Portola Owner, LLC,
a Delaware limited liability company

Date: 6/26/24 By: _____
David Schwartzman
Authorized Signatory

CITY OF LIVERMORE

Date: 7/23/2024 By: _____
Marianna Marysheva,
City Manager

Attest: _____
City Clerk

Approved as to Form: _____
Deputy/Assistant/City Attorney

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles)

On June 26, 2024 before me, Josie Manlutac Santos, Notary Public
(insert name and title of the officer)

personally appeared David Schwartzman,
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.

JOSIE MANLUTAC SANTOS
Notary Public - California
Los Angeles County
Commission # 2376607
My Comm. Expires Sep 26, 2025

Signature _____ **(Seal)**

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda }

On 07/23/2024 before me, Corina Mendoza, Notary Public
Date *Here Insert Name and Title of the Officer*

personally appeared Marianna Marysheva
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

CORINA MENDOZA
Notary Public - California
San Joaquin County
Commission # 2424738
My Comm. Expires Nov 1, 2026

Place Notary Seal and/or Stamp Above

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 Corina Mendoza
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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Exhibits:

Exhibit A:	Legal Property Description
Exhibit B:	Development Plans
Exhibit C:	Master Project Infrastructure Timing, Repair and Replacement and Impact Fee Special Provisions
Exhibit D:	Affordable Housing
Exhibit E:	Commercial Uses
Exhibit F:	City Fee Schedule
Exhibit G:	Form of Estoppel Certificate
Exhibit H:	Definitions
Exhibit I:	Fee Creditable Improvements
Exhibit J:	Community Facilities District (CFD) Provisions
Exhibit K:	INSP Figure 2.3, Subarea Diagram
Exhibit L:	Core Vested Regulations
Exhibit M:	Reserved
Exhibit N:	Reserved
Exhibit O:	Affordable Housing Template Agreement
Exhibit P:	Public Art
Exhibit Q:	Financial Contributions
Exhibit R:	Law Enforcement Assets
Exhibit S:	Proposed CFD Eligible Infrastructure

Livermore Isabel Investments, LLC

City of Livermore Community Development Department
Planning Division
City of Livermore
1052 S. Livermore Ave
Livermore, CA 94550 1052
Email: planning@cityoflivermore.net

Re: Letter of Authorization/ Ownership Disclosure

To Whom it May Concern:

Livermore Isabel Investments, LLC owns an 85% Membership Interest in Isabel Portola Investments, LLC, which is the 100% owner of Isabel Portola Holdings, LLC, which is the 100% owner of Isabel Portola Owner, LLC, the Owner of the 45-acre property located at Assessor Parcel Numbers 903-0010-046-00 through 903-0010-054-00 (the "Site") in the City of Livermore, California ("City").

SP Harridge Livermore LLC owns a 15% Membership Interest in Isabel Portola Investments, LLC, which is the 100% owner of Isabel Portola Holdings LLC, which is the 100% owner of Isabel Portola Owner, LLC, the owner of the Property. SP Harridge Livermore LLC is the Managing Member pursuant to the terms of the Operating Agreement, which is defined as" the Member which has been authorized and directed to manage the day-to-day business and affairs of the Company and is authorized to sign on behalf of Isabel Portola Owner, LLC.

The undersigned hereby confirm, acknowledge and agree that David Schwartzman, for the purposes of this application, is an authorized signatory for Isabel Portola Holdings, LLC and its wholly-owned subsidiary Isabel Portola Owner, LLC.

Sincerely,

Livermore Isabel Investments, LLC
By Joshua Peck,
Vice President

Sincerely,

SP Harridge Livermore, LLC
By David Schwartzman
Authorized Signatory

EXHIBIT A

(Legal Description of the Land)

Real property in the City of Livermore, County of Alameda, State of California, described as follows:

PARCELS 1, 2, 3, 4, 5, 6 AND 7, PARCEL MAP 9770, FILED SEPTEMBER 10, 2008 IN BOOK 310, PAGES 3 THROUGH 8, INCLUSIVE, OF MAPS, ALAMEDA COUNTY RECORDS.

EXHIBIT B – Development Plans Placeholder

(Refer to Staff Report Attachment 2 for full Development Plans)

EXHIBIT C

Master Project Infrastructure Timing, Repair and Replacement and Impact Fee Special Provisions

Introduction

This Exhibit C describes the Developer obligations for the timing and completion of the major project infrastructure for the Project.

Timing and Processing

1. Phase I Project Infrastructure Timing and Sequencing:

   a. *Offsite, Bus Stop, and Bike Lane Improvements.* Shall be completed by the Developer and operational within the following timelines:

      i. Portola/North Canyons/Campus Hill Drive Improvements: All Offsite, Bus Stop, and Bike Lane Improvements located on or adjacent to Portola Avenue/ North Canyons Parkway/Campus Hill Drive shall be completed within twenty-four (24) months of the issuance of improvement plan approvals for such work by the City, subject to Enforced Delay provisions.

      ii. Isabel Avenue Improvements. All Offsite, Bus Stop, and Bike Lane Improvements located on or adjacent to Isabel Avenue shall be completed within forty-eight (48) months of the issuance of improvement plan approvals for such work by the City, subject to Enforced Delay provisions.

   b. *Primary Internal Improvements*. The Primary Internal Improvements shall be completed within sixty (60) months of the commencement of their construction. The Primary Internal Improvements are intended to be constructed by Developer in one continuous phase. For clarity, this time limit is subject to Enforced Delay conditions.

   c. *Caltrans Embankment Master Landscaping*. The Parties recognize that the proposed landscaping work on the California Department of Transportation ("Caltrans") embankment (as depicted in Exhibit I) is dependent upon obtaining Caltrans approval.

      i. Prior to Improvement Plan approval for the Isabel Avenue Improvements as required by the Livermore Development Code and Engineering Plan Check and Procedures Manual, Developer shall engage the City of Livermore and Caltrans for the proposed landscaping work on the Caltrans embankment.

      ii. If, with reasonably diligent efforts, Developer is unable to obtain CA Department of Transportation approval for the work prior to the commencement of construction of the Offsite Improvements, Developer may submit a written request to the Director to be relieved of the obligation, which approval the Director shall not unreasonably withhold.

d. *Campus Hill Drive Bike Lanes*. Prior to Improvement Plan approval, Developer shall submit an engineer's estimate identifying total costs of the north and southbound bike lanes along Campus Hill Drive. Prior to Improvement Plan approval, Director shall determine whether a Class II or Class IV bike lane (as those terms are used in the Livermore Active Transportation Plan) shall be constructed.

e. *Law Enforcement Assets.* Developer or Successor shall install all Perimeter Assets subject to the following:

   i. Perimeter Assets shall be installed within forty-eight (48) months of the issuance of improvement plan approvals by the City, subject to force majeure provisions in the Agreement.

   ii. Perimeter Assets shall connect to the Livermore Police Department's Real Time Awareness Center, as approved by the Director, Police Chief, and Administrative Services Director.

   iii. Perimeter Assets shall be located on City traffic signals, streetlights, or other infrastructure, as approved by the Director, Police Chief, and Administrative Services Director.

f. *Mutual Cooperation.* The Parties recognize that the Developer and another separate project to the east (Shea) are responsible for a range of on and offsite improvements within the public right-of-way along Isabel Avenue and Portola Avenue. In order to promote timely, efficient, and coordinated construction within the public right-of-way, and in order to minimize traffic delays and hazardous roadway conditions, the Developer shall work cooperatively with Shea and the City to coordinate all construction activities within the public right-of-way, to the extent practical.

2. <u>Phase II Project Infrastructure Timing and Sequencing:</u>

a. *Park and Plaza Design*. Developer shall submit Park and Plaza designs no later than the time of the submittal of the Improvement Plans and shall include the information below:

   i. As approved by the Director and LARPD, the Park design plans shall include: a picnic area with tables, barbeques, and a shade structure adjacent to the children's play area; the children's play area shall include a shade structure; and the park shall include design details ensuring appropriate space activation, enclosures, and programming.

   ii. The Parties shall coordinate on the final design of the Neighborhood Park with LARPD, subject to the credit provisions, below.

   iii. Park design shall include a law enforcement camera or cameras connected to the Livermore Police Department's Real Time Awareness Center, as approved by the Police Chief, Director, and LARPD.

iv. Developer shall work with the City of Livermore and LARPD to incorporate motion-detection lighting in the park, as agreed upon and approved by the Police Chief, Director, and LARPD.

v. Developer shall work with the City of Livermore and LARPD to explore including stationary outdoor exercise equipment in the park.

b. *Timing of Opening of Neighborhood Park.* The Neighborhood Park (Planning Area N3-B) shall be fully constructed and shall open prior to the Final Building Permit Inspection of Planning Areas N1, N2, N3-A and either C3 or C5.

c. *Timing of the Town Square.* The Town Square (TS) shall be constructed and opened prior to the issuance of the first Certificate of Occupancy for a residential unit in Planning Area S1.

d. *Timing of Pocket Plazas.* The Pocket Plazas (C1-C and C2-C) shall be constructed and open prior to the issuing a Certificate of Occupancy for the first residential unit of the respective adjacent Planning Areas, Planning Areas C2-A and C1-B.

e. *Timing of Temporary Commercial Activation.* The timing for the Temporary Commercial Activation shall be as set forth in Exhibit E.

f. *Primary Internal Streets (Final Lift).* The final lift for Primary Internal Streets shall be completed prior to the first Residential Move-In or Commercial Move-In for the nearest adjacent Planning Area.

g. *Valley Link Access Easement.* Developer shall provide to the City an irrevocable offer of an easement for access and permanent operation for a potential Valley Link Tunnel and Landing Area or Valley Link Overcrossing and Landing Area, on the Final Map, as approved by the Director.

h. *Law Enforcement Assets.* Controllers, cameras, sensors, etc. necessary for monitoring public safety in the Project Area. See Exhibit R for the location of said equipment.

i. All Interior Assets, except Knox Boxes, shall connect to the Livermore Police Department's Real Time Awareness Center, as approved by the Director, Police Chief, and Administrative Services Director.

ii. All Interior Assets, except Knox Boxes, shall be located on City streetlights or other infrastructure, as approved by the Director, Police Chief, and Administrative Services Director.

i. Developer or Successor shall work cooperatively with the Director, Police Chief, and Fire Chief to assess the feasibility of Commercial Block Knox Box installation.

j. *Recreation Facility Access.* The Project's recreation facility (Planning Area N3-C) shall be accessible by any for-sale resident within the Project site, including all for-sale affordable units.

Developer Repair and Replacement Obligation

1. Infrastructure and Improvement Repair. Regarding the Phase I and Phase II Project Infrastructure, if, following the final release of performance bonds by the City for said infrastructure but before completion of the Project, said infrastructure is damaged or destroyed as a result of Project construction activities, the Developer shall ensure such infrastructure is adequately repaired or, if necessary, replaced with like new features that substantially conform to the original work to the reasonable satisfaction of the Director.

2. Master Landscaping Performance. It shall be the sole responsibility of the Developer to ensure all Master Landscaping shall take and thrive. Master Landscaping shall be subject to an 18-month establishment period from initial planting. If any Master Landscaping dies or is identified as unhealthy by a certified arborist or landscape architect within the establishment period, Developer shall take reasonably necessary steps to replace or restore the Master Landscaping, including but not limited to any necessary changes to irrigation, soil, spacing, etc. within six months of notification of such dead or unhealthy Master Landscaping.

Impact Fees

1. Park Fees

   a. *Pocket Plaza Improvements.* Pocket Plaza and the Town Square (Planning Areas C1-C, C2-C, and TS) permanent improvements shall be eligible for Park Fee credits for construction of public improvements. The total credit amount shall be determined by an engineer's estimate prior to Improvement Plan approval, as approved by the Director.

   b. *Neighborhood Park Improvements.* Neighborhood Park (Planning Area N3-B) permanent improvements shall be eligible for Park Fee credits for construction of public improvements. The total credit amount shall be determined by an engineer's estimate prior to Improvement Plan approval, as approved by the Director.

   c. *Neighborhood Park Land.* The Neighborhood Park land (Planning Area N3-B) of 1.5 acres shall be eligible for $2 million in Park Fee credits.

2. Traffic Impact Fees

   a. *Credits.* All infrastructure identified as credit eligible in Exhibit I shall be eligible for City Traffic Impact Fee ("TIF") credits.

   b. *Credit Procedure.* The City shall credit the Developer, or assignee, in accordance with all standards listed in the Traffic Impact Fee on Development section of the Livermore Municipal Code (Chapter 12.30).

   c. *Main Street Reimbursement.* Upon issuance of the final core and shell Certificate of Occupancy for all commercial spaces in either Planning Area C1-B or C2-A, the City shall reimburse the Developer's, or their assignee, Traffic Impact Fees

for all Main Street Improvements, from Gateway Avenue to Street A, in the amount of an engineer's estimate, up to $2.2 million.

EXHIBIT D

Affordable Housing

Introduction

This Exhibit D establishes Developer Obligations for construction of affordable housing within the Project site.

1. Low Income Rental Housing Units (Planning Area S3A)

   a. *Quantity and Location*. The Project shall construct one hundred and fifty two (152) units of "low income" multi-family rental housing units in Planning Area S3A ("**Low Income Housing Units**").

   b. *Affordability Levels*. The units shall be comprised of fifty three (53) units reserved for "Very Low Income Household" rental housing, as the term is defined in Health & Safety Code, Section 50105, and ninety nine (99) units reserved for "Lower Income Household" rental housing, as the term is defined in Health & Safety Code, Section 50079.5 (collectively, "**Low Income Housing Units**"). Said Low Income Housing Units shall be constructed within Planning Area S3A.

   c. *Unit Mix*. The unit mix shall include one-bedroom, two-bedroom, and, three-bedroom units. With respect to three-bedroom units, the Parties recognize and agree that the intent of this Agreement is to include three- bedroom affordable units in Planning Area S3A. However, to maintain flexibility for the purpose of ensuring the proposed affordable units in Planning Area S3A are consistent with the requirements of public affordable housing financing providers' point-system-based competitive application processes while also ensuring the overall economic viability of the Low Income Housing Units, the final unit mix and number of three- bedroom units in Planning Area S3A shall be determined by Developer and/or the Affordable Developer in the manner that maximizes the units' eligibility for earning points for subsidized public affordable housing financing while maintaining economic viability for the Low Income Housing Units. Planning Area S3A shall not contain any age restricted residential units.

   d. *City Concurrence on Affordable Housing Developer*. Developer may elect to transfer Planning Area S3A to or otherwise partner with a third-party affordable housing developer ("**Affordable Developer**") to provide the Low Income Housing Units. However, prior to any such transfer or partnership being finalized, Developer shall obtain the City's prior approval of the Affordable Developer, which shall not be unreasonably withheld, conditioned, delayed or denied, so long as said Affordable Housing Developer makes a reasonable demonstration of relevant experience developing affordable housing and the financial ability to develop the Project's Low Income Housing Units.

   e. *Affordable Housing Timing*. Within twenty-four (24) months of the Effective Date of this Agreement, Developer and/or the Affordable Developer shall have submitted to

the State of California complete applications for tax credit and multifamily housing bond financing for the Low Income Housing Units.

f. *Performance Bond to Fund Low Income Housing Units*. On or before the date upon which the Final Map that includes Planning Area S3A is recorded, Developer shall post in an escrow account the sum of eleven million, four hundred thousand dollars ($11,400,000.00) (the "**Low Income Housing Amount**") in cash ("**Low Income Housing Cash Payment**") or, provided at Developer's sole expense, a performance bond ("**Low Income Housing Bond**") with the City as the obligee and sole beneficiary in the Low Income Housing Amount. The Low Income Housing Amount can be met through a combination of a Low Income Housing Cash Payment and a Low Income Housing Bond, so long as it totals the full Low Income Housing Amount. The Low Income Housing Cash Payment or Low Income Housing Bond shall secure: (i) delivery of fee title of S3-A to the Affordable Developer; (ii) delivery of the S-3A Pad; and (iii) close of escrow by the affordable Developer of Low Income Housing Tax Credit (LIHTC) financing for the final number of Low Income Housing Units to be constructed in Planning Area S3A [(i), (ii) and (iii) above being hereinafter collectively referred to as the "**LIHTC Financing Conditions**"]. The Low Income Housing Bond and escrow instructions shall enable the City to, in its sole and absolute discretion, withdraw the Low Income Housing Cash Payment or put a call on the Low Income Housing Bond for the Low Income Housing Amount no sooner than six (6) years from the Effective Date if Developer has not completed the LIHTC Financing Conditions ("**LIHTC Time Limit**"). In such a case, the Low Income Housing Cash Payment or Low Income Housing Bond funding shall be used by the City to fund the construction of the Project's Low Income Housing Units on Parcel S3-A. The Low Income Housing Cash Payment or Low Income Housing Bond shall be immediately released upon Developer's completion the LIHTC Financing Conditions. For clarity, the six (6) year LIHTC Time Limit is subject to Enforced Delay provisions. The entirety of the Low Income Housing Cash Payment or Low Income Housing Bond in the Low Income Housing Amount is not required to be expended by the City if sufficient low income project financing can be obtained to construct the Project's final permitted number of Low Income Housing Units. The City's release of the Low Income Housing Amount does not remove the Developer's obligation to provide the Low Income Housing units, as described in this exhibit. The Developer, Affordable Developer, and all successors are obligated to ensure the Low Income Housing units are constructed and made available for rent in accordance with this Agreement and the approved Project plans.

g. *Developer Obligations*. Developer meets all *Performance Bond to Fund Low Income Housing Units* requirements under this Agreement for the provision of Low Income Housing Units in Planning Area S3A and shall not be in breach of this Agreement with respect to the same where it either: (1) transfers Planning Area S3A to an Affordable Developer with funding commitments sufficient to construct the final number of approved Low Income Housing Units; or (2) places in an escrow account, consistent with the requirements of this subsection, the Low Income Housing Bond, the Low Income Housing Cash Payment, or a combination thereof, in the full Low Income Housing Amount; and transfers Planning Area S3A in fee title to the City of Livermore, as described in the *Land Ownership Transfer* section below. Developer

has elected to work with a third-party Affordable Developer to provide the Project's Low Income Housing units. The Developer, Affordable Developer, and all successors are obligated to ensure the Low Income Housing units are constructed and made available for rent in accordance with this Agreement and the approved Project plans, as the same may be amended pursuant to this Agreement, as agreed upon by both Parties.

h. *Land Ownership Transfer*. If the LIHTC Time Limit is reached without Developer having met the LIHTC Financing Conditions, the City may, at its own election and in its sole discretion, deliver written notice to Developer stating the City wishes to take ownership of Planning Area S3-A to ensure the construction of the Low Income Housing Units using the Low Income Housing Amount. If, at the time of such written notice is provided by the City, Developer is the fee owner of Planning Area S3-A, Developer shall deed fee ownership of Planning Area S3A to the City at no cost to the City, to enable the City to develop Low Income Housing Units pursuant to the requirements of this Section. If Developer transfers ownership of Planning Area S3A to an Affordable Developer before the LIHTC Time Limit is reached, said transfer shall include a binding commitment and written agreement from the Affordable Developer to agree to take Planning Area S3A subject to the City retaining an extinguishable right of reversion of fee ownership if the LIHTC Time Limit is reached without the LIHTC Financing Conditions having been met. The grounds upon which this reversion right is extinguishable shall only be where said extinguishment is required by a bona fide provider of affordable financing for the Low Income Housing Units, in which case the reversion right shall be permanently and irrevocably extinguished by the City, conditioned upon the closing of affordable financing. Where such extinguishment is required, either Developer or the Affordable Developer shall deliver to the City a letter from said provider of affordable housing financing indicating it is requiring extinguishment of the reversion right herein, wherein the City shall promptly – but in no case more than ten (10) business days of receipt of said letter – deliver to Developer or the Affordable Developer written confirmation that its right of reversion is permanently waived and extinguished pursuant to the terms of this provision conditioned upon the closing of the affordable housing financing.

    i. *Clean Title*. For any transfer to the City of ownership of Planning Area S3A under this provision, title shall be delivered free of liens, loans, notes, taxes, and other encumbrances, except for: (1) any easements, encumbrances and exceptions depicted on the Final Map; (2) any easements for utilities, storm drains or other flood control devices or conveyances; and (3) any other easements or encumbrances expressly agreed to by the City.

i. *Cooperation*. The Parties covenant and agree to cooperate with one another to help achieve the key purpose of this Agreement that Developer and/or the Affordable Developer to obtain affordable housing financing for the Low Income Housing Units and to execute and deliver to the other all such other and further instruments and documents as may be necessary to carry out this purpose, which may include, without limitation, the City issuing a formal written release of its reversionary ownership rights hereunder in connection with the closing of affordable project financing by

Developer and/or the Affordable Housing Developer.

2. Moderate/Median Income Rental Housing

   a. *Moderate Income Housing in Planning Area C1-B.* The Project shall construct one hundred and fourteen (114) units of "median and moderate income" multi-family rental housing units, which shall be comprised of fifty- seven (57) units reserved for "persons and families of moderate income," as the term is defined in Health & Safety Code, Section 50093(b) [120% area median income ("**AMI**") level] ("**Moderate Income Rental Units**"), and fifty-seven (57) units reserved for "persons and families of median income," as the term is defined in Health & Safety Code, Section 50093(c) [100% AMI level] ("**Median Income Rental Units**"), all of which are to be constructed in Planning Area C1-B.

   b. *Unit Mix.* The unit mix for Moderate and Median Income Rental Units in Planning Area C-1B stated herein shall include one, two, and three bedroom units. The mix shall be 25 percent 3-bedroom units, 25 percent 2-bedroom units, 25 percent 1-bedroom units, and 25 percent studio units. An equal quantity of Median and Moderate Income Rental units shall be provided for each bedroom type, and any fractional units shall be apportioned to the Median category.

   c. *Timing Requirements.* The timing requirements for the provision of Moderate and Median Income Rental Units in Planning Area C1-B of the Project is as set forth in Exhibit C.

3. Inclusionary Housing in Planning Area S3-B

   a. The Project shall construct forty (40) units of affordable multi-family rental housing units consistent with the Affordable Housing requirements under Section 10.06.050-A.1.c.2 of the Livermore Development Code, as the same is in effect on the Effective Date, all of which are to be constructed in Planning Area S3-B. Said total comprises twenty percent (20%) of the planned 200 rental housing units in Planning Area S3-B.

   b. *Unit Mix.* The inclusionary housing units in Planning Area S3-B shall consist of one and two bedroom units consistent with the units sizes and product types indicated for Planning Area S3-B on Exhibit B. However, if any three bedroom units are built in Planning Area S3-B, a proportionate number of such units shall be included as inclusionary housing units consistent with the unit size limitations set forth in Exhibit B.

4. Moderate/Median Income For-Sale Housing

   a. *For-Sale Affordable Units In Planning Area S1.* The Project shall provide a total of twenty (20) for-sale affordable units, which shall be comprised of fifteen (15) units for "persons and families of moderate income," as the term is defined in Health & Safety Code, Section 50093(b) [120% AMI level] ("**Moderate Income For-Sale Units**"), and five (5) units reserved for "persons and families of median income," as

the term is defined in Health & Safety Code, Section 50093(c) [100% AMI level] ("**Median Income For- Sale Units**") in Planning Area S1.

i. *Unit Mix.* The affordable unit mix shall match the market-rate unit mix. The same proportion of one- two- and three-bedroom units shall be apportioned to market-rate and affordable units. If two-and- three-bedroom affordable units are provided, Developer may select which of the market-rate two-and-three-bedroom units are designated as affordable units in Planning Area S1. All affordable units must represent a unit type that is also sold as market-rate and must be adequately dispersed around the Planning Area, as determined by the Director.

b. *For-Sale Affordable Units In Planning Area C2-A.* The Project shall provide a total of fifteen (15) for-sale affordable units, which shall be comprised of eleven (11) Moderate Income For-Sale Units, and four (4) Median Income For-Sale Units, all of which are to be constructed in Planning Area C2-A.

i. *Unit Mix.* The affordable unit mix shall match the market-rate unit mix. The same proportion of one- two- and three-bedroom units shall be apportioned to market-rate and affordable units. If two-and- three-bedroom affordable units are provided, Developer may select which of the market-rate two-and-three-bedroom units are designated as affordable units in Planning Area C2-A. All affordable units must represent a unit type that is also sold as market-rate and must be adequately dispersed around the Planning Area, as determined by the Director.

c. *For-Sale Affordable Units In Planning Area S4.* The Project shall provide a total of ten (10) for-sale affordable units, which shall be comprised of seven (7) Moderate Income For-Sale Units, and three (3) Median Income For-Sale Units, all of which are to be constructed in Planning Area S4.

i. *Unit Mix.* The affordable unit mix shall match the market-rate unit mix. The same proportion of one- two- and three-bedroom units shall be apportioned to market-rate and affordable units If two-and-three-bedroom affordable units are provided, Developer may select which of the market- rate two-and-three-bedroom units are designated as affordable units in Planning Area S4. All affordable units must represent a unit type that is also sold as market-rate and must be adequately dispersed around the Planning Area, as determined by the Director.

d. *Affordable Unit Maximum Sale and Rent Prices.* The City shall establish the maximum sales and rent prices for the Project's for-sale and for-rent affordable units, in accordance with applicable City ordinances and policies and applicable state and federal law and policy on an annual basis, except that all rents and sales prices for units receiving state tax credit shall be established by state standards.

5. Additional Affordable Units:

a. *Developer will provide an additional* twelve (12) Moderate and Median Income For-Sale Units within Planning Areas S1 or C2-A ("Additional Affordable Units").

b. *Affordability Levels*. The Additional Affordable Units shall be comprised of six (6) Moderate Income For-Sale Units, and six (6) Median Income For- Sale Units.

c. *Unit Mix*. The Additional Affordable Units shall all be the smallest three- bedroom unit types available in Planning Areas S1 or C2-A.

6. Compliance with Inclusionary Ordinance and Specific Plan. Except as allowed by this Agreement and the Project Approvals, Project shall fully conform to the City's Inclusionary Housing Ordinance (Livermore Development Code Section 10.06.050) and INSP affordable housing policies, including with respect to security, the Low-Income Housing Agreement, monitoring, restriction, alternative means of compliance, and enforcement. Nothing in this Agreement shall preclude the City from enforcing the applicable provisions of the Inclusionary Housing Ordinance, the Low-Income Housing Agreement, and INSP policies related to affordable housing.

7. Low Income Housing Agreement. Prior to issuance of building permits on any Planning Area upon which Affordable Housing is to be constructed, the City and Developer shall enter into an Affordable Housing Agreement which shall detail Affordable Housing requirements for the Project and be consistent with the requirements of this Agreement, which Affordable Housing Agreement shall be substantially consistent with the City's standard form of agreement attached hereto as Exhibit O, as said standard form agreement may be amended by the City from time to time. In addition to any other revisions agreed to by the Parties, the Affordable Housing Agreement shall include additional provisions stating that the City may pre-approve certain Affordable Developers for the Project. The Low-Income Housing Agreement shall be recorded separately from this Agreement.

EXHIBIT E

Commercial Uses

Introduction

This Exhibit E describes the Developer obligations for the timing and completion of the commercial uses for the Project.

Timing and Processing

1. Commercial and Residential Construction/Linkage

    a. *Planning Areas C1A and C1B.* Building Permits shall not be issued for Planning Area C1A until building permits have been issued and impact fees have been paid for Planning Area C1B.

    b. *Planning Areas C2A and C2B.* Building Permits shall not be issued for Planning Area C2B until building permits have been issued and impact fees have been paid for Planning Area C2A.

    c. *Planning Areas S1 and S2.* Building permits for more than forty-two (42) residential dwelling units in Planning Area S2 shall not be issued until building permits have been issued and impact fees have been paid for Planning Area S1.

2. Occupancy of Planning Area S1

    a. Developer shall be required to make all reasonable efforts to enter into a long-term lease agreement with a Permanent Commercial Grocer or Food Hall in the Retail Market portion of Planning Area S1, as shown in Exhibit B (Development Plans), within 24 months of S1 Certificate of Occupancy issuance.

    b. Until a long-term lease agreement is secured, temporary interim uses shall be allowed in the Retail Market portion of Planning Area S1 through Temporary Use Permits, as described in Livermore Development Code Chapter 9.09, or as amended, and as approved by the Director. The temporary uses shall have the following characteristics, as determined by the Director:

        i. Shall be allowed in the subject zone; and

        ii. Shall be of a neighborhood serving character (e.g. food service, entertainment, etc.).

    c. If the Developer is not able to secure a long-term lease with a Permanent Commercial Grocer or Food Hall within such 24 months, Developer may lease the Retail Market portion of Planning Area S1 to any food based use (either fresh or prepared food), provided that a minimum of 25% of the floor area is reserved for fresh food retail

use, unless otherwise approved in writing by the Director.

3. Temporary Commercial Activation

   a. *Plan Approval.* Prior to Final Occupancy of the Project's 50th residential dwelling unit, Developer shall submit a site plan and management plan that identify locations, sizes, uses, operations and maintenance of all Temporary Commercial Activation uses. The plans shall be approved in writing by the Director.

   b. *Pad Construction.* As described in Exhibit C (Master Infrastructure), the Temporary Commercial Activation site shall be constructed prior to issuance of the Project's first residential dwelling unit Building Permit.

   c. *Location.* The Temporary Commercial Activation site shall be located on one of the Project's Commercial Blocks. If a Commercial Block with the Temporary Commercial Activation Site is to be developed, the Temporary Commercial Activation site shall be relocated to a vacant Commercial Block, at Developer's discretion, or another location agreed to by the Parties, until the limit established in the *Period of Operation* section is reached.

   d. *Timing.* Prior to issuance of a building permit for the Project's 195th residential dwelling unit, the Temporary Commercial Activation site shall be operational and open to the public.

   e. *Period of Operation.* Unless otherwise approved by the City, Temporary Commercial Activation shall remain in operation until a building permit is issued for the third of the Project's three Commercial Blocks, or as otherwise agreed to by the Developer and Director in writing.

   f. *Operations and Management.*

      i. The Developer or its management entity shall be responsible for tenanting, leasing, and managing all temporary commercial operators on the Temporary Commercial Activation site, as approved by the Director.

      ii. The Developer or its management entity shall ensure the Temporary Commercial Activation site is publicly accessible and operational a minimum of two days a week on average throughout the year, as determined by the Director.

      iii. Developer or its management entity shall ensure the Temporary Commercial Activation site remains in good condition at all times and that sufficient facilities are provided to ensure proper site function to facilitate commercial activity and use by the public (e.g. parking, trash, restrooms, seating areas, etc.).

   g. *Leases.* All Temporary Commercial Activation site operators herein will be required to enter into commercial leases with Developer or its management entity on terms reasonably satisfactory to Developer or its management entity, which shall include

standard commercial lease terms including, without limitation, permitted use restrictions, tenant improvement and permitting requirements, repair and maintenance requirements, casualty provisions, insurance requirements, common area maintenance expenses, and time, place and manner restrictions, among other standard commercial lease terms for temporary leases for similar uses in similar locations. In Developer's sole and absolute discretion, if the Temporary Commercial Activation site operator is a commercial retail operation providing goods or services to the community, the Temporary Commercial Activation site operator may be provided a base rent of zero, and Developer or its management entity may instead accept rent as a commercially reasonable percentage of monthly gross receipts.

h. *Vacancy and Rent.* If the Developer cannot find rent-paying commercial operators for the Temporary Activation site and the Temporary Commercial Activation site is vacant for more than three months, use of the site shall be offered rent free or otherwise with a base rent of zero until such time as suitable rent paying tenants can be identified.

4. Main Street and Gateway Avenue Ground Floor Uses.

a. *Non-Commercial Uses*. The following uses shall be permitted in up to 50 percent of Main Street and Gateway Avenue ground floor tenant spaces (Planning Areas C1-B, C2-A, an S1), excluding the S1 Retail Market space of 18,500 square feet as described in Exhibit B (Development Plans):

i. Flexible Co-Workspace Uses, as defined in this Agreement and as amended;

ii. Public and Quasi Public Uses, as defined in the Livermore Development Code, as amended; and

iii. Office Core uses, as defined in the Isabel Neighborhood Specific Plan, as amended.

b. *Restaurant and Retail Uses*. At least 75 percent of all tenant spaces directly fronting onto the public plazas (Planning Areas C1-C, C2-C, and TS) shall be occupied with restaurant, retail and related uses, as determined by the Director and as allowed in the Ground Floor Retail/ Overlay Flex Space and Office Core zones.

c. *Public and Quasi Public Dedication*. Upon written request of the City, the Developer shall dedicate the northern-most ground floor tenant space not to exceed 3,000 gross square feet unless agreed to in writing by Developer in Planning Area C2-A to public/ quasi-public uses, to include but not limited to: a public library, art space, police substation, bike share facility, etc. Compensation for the Public and Quasi Public tenant space and any required tenant improvements shall be negotiated in good faith between the Parties prior to the City occupying the tenant space. Compensation may include art fee contributions, or other compensation as agreed upon mutually by the Director and the Developer.

5. The Parties recognize that the successful permanent and temporary use of the commercial component of Planning Area S1 and the temporary activation of the Commercial Blocks

depends on the Developer's ability and on the City's support to attract and enter into permanent and temporary leases with reputable, desirable Permanent Commercial Grocers, Temporary Commercial Operators, and Temporary Commercial Activation uses.

6. Mutual Cooperation. The Parties will work cooperatively to: meet regularly with prospective tenants, leasing agents, brokers, vendors, and coordinators; establish timelines for permit and document review and submittal; and will collaboratively provide for a positive environment to attract permanent and temporary commercial uses to the Project.

7. Operations of Pocket Plazas

    a. *The Pocket Plazas* (Planning Areas C1-C and C2-C) and the Town Square (Planning Area TS) shall be operated and maintained by the owner or tenant of the respective adjacent Planning Areas, Planning Areas C1-B, C2-A, and S1, or in accordance with another arrangement approved by the Director.

8. Fee Reductions

    a. *Downtown Traffic Impact Fee Rate Reduction.* The Project creates a walkable, dense, compact mixed-use commercial Gateway and Main Street core (Planning Areas C1B, C2A, and S1), which is similar to a downtown environment and lessens the traffic impact on the City. Therefore the Developer may obtain reimbursement of the Project's City Traffic Impact Fees ("TIF") in the amount of the difference between the applicable standard citywide TIF rates and the reduced Downtown TIF rates for said fees ("Downtown Fee Rate Reduction") upon the performance of the mixed-use Planning Areas. This strategy reduces TIF from the citywide rate to the Downtown Rate when a complete neighborhood with mix of uses is completed and operational.

    Payment of Citywide TIF and reimbursement shall occur as follows:

        i. At time of building permit issuance for residential units and non- residential spaces, the developer shall pay citywide TIF rate.

        ii. Once the final core and shell Certificate of Occupancy for commercial areas is issued for the first Commercial Block, the City shall reimburse the developer, or their assignee, 50% of the difference between the citywide TIF rate and the Downtown TIF rate, collected to date.

        iii. Once the final core and shell Certificate of Occupancy for commercial areas is issued for the second Commercial Block, the City shall reimburse the developer the remaining difference between the citywide TIF rate and the Downtown TIF rate, collected to date.

        iv. After the final core and shell Certificate of Occupancy for commercial areas is issued for the second Commercial Block, the Developer shall pay the Downtown TIF rate.

        v. The TIF fee shall be collected at time of building permit issuance. Fees for

which credits or reimbursement are provided pursuant to this provision shall not be included in the Project Community Facilities District (Exhibit J).

vi. The City shall retain all interest earned on TIF fees collected up until the time of reimbursement. All interest earned shall be committed to TIF related expenditures.

b. *Transferrable Development Credit ("TDC") in-lieu fees.* The NLUGB Initiative (Initiative) establishes a Transferable Development Credit program which assigns credits to property owners in North Livermore, which may be used within the Urban Growth Boundary ("UGB") to increase allowable development elsewhere in the City.

The purpose of Initiative (Section 1) is to (among other items) prevent further sprawl, reduce traffic congestion and hazards, limit air pollution, and avoid government expenditures for extended facilities and services.

The Initiative finds (Section 2h) that more compact, properly planned residential development lowers housing and other living costs; and reduces the costs of public facilities and services, especially where infrastructure is available.

The Initiative acknowledges the necessity to provide housing beyond the UGB and authorizes Council to approve housing beyond the UGB to meet state housing requirements (Section 4c). The Initiative states (Section 20b) that development credits may be used, as the City Council approves in accordance with the General Plan and other City regulations, in areas within the City boundary and Urban Growth Boundary to build dwelling units and commercial and industrial space, including space that otherwise would not be permitted or not permitted until a later time. Additionally, with reasonable justification, the Council may permit more development per credit in some receiving areas and for certain types of uses.

The 2022 Housing Element of the Livermore General Plan identifies the Project Site in the Housing Sites Inventory and states a majority of the 6th cycle regional housing allocations (4,570 units) will be constructed in the Isabel Neighborhood. Falling short of the estimated number of units will require the City to identify additional housing locations due to no net loss obligations and potentially require identifying sites outside of the UGB. The Livermore General Plan states the TDC requirements in a specific plan area, if any, shall be set forth in the specific plan for that area.

Specific Plan policy P-IMP-6: Transferable Development Credit (TDC) regulations shall be applied to the Specific Plan consistent with Livermore Development Code. Modifications to the TDC program may be made through a Development Agreement on a project-specific basis as recommended by the Director and approved by City Council if such modifications are shown to be necessary to meet Specific Plan goals.

The Livermore Municipal Code establishes a TDC in-lieu fee whereby development can choose to pay a fee for units constructed above baseline density rather than acquiring land in North Livermore. The in-lieu fee is adjusted based on density range and product type ranging from 1.5 credits for single family units to 1/2 credit for

multi-family units.

Further, section 4.02.60(D)(4) of the LDC authorizes the Council to, through the adoption of a specific plan and implemented consistently by development agreement, make modifications to the transferable development credits regulations to meet the specific plan's density, design policies, and goals that are not inconsistent with the transferable development credit program.

The Project proposes the highest densities on each mixed-use "**Commercial Block**" (Planning Areas C1B, C2A, and S1). Given such densities, the Parties find the following:

i. Under today's market conditions, constructing at these densities along with commercial uses can be challenging;

ii. The Commercial Block densities are critical in supporting the City's overall housing goals and in helping the City meet its 6th Cycle RHNA obligations;

iii. The mixed-use Commercial Blocks create more compact and dense development within the Urban Growth Boundary, preventing sprawl, reducing traffic congestion and hazards, limiting air pollution, and avoiding government expenditures for extended facilities and services, as contemplated by the Initiative; and

iv. The Commercial Blocks' density ranges, mix of uses, and proximity to future transit warrant a higher level of development per credit than other areas in the City.

The higher density of development per credit shall only be assessed once the Commercial Blocks are built, consistent with the provisions of this agreement. Therefore, consistent with the Initiative, General Plan, Specific Plan, and Livermore Municipal and Development Codes, the parties agree to modify the TDC program as follows:

i. At time of Master Final Map, Developer shall pay Transfer Development Credit in-lieu fees for all units proposed as part of the Project. The Project is comprised of a range of multifamily product types and subject to a fee equivalent of 1/2 TDC credit per unit.

ii. The City shall reimburse the developer 7/16 credit per unit within each individual Commercial Block if the following performance triggers are met (this credit is based on the density range for the mixed-use Commercial Blocks):

    a. A Building Permit is issued for a Commercial Block within 7 years of the effective date of this agreement.

        1. The Director may permit reimbursement beyond 7 years if the

Project shows significant and substantial progress towards completion, as determined by the Director.

b. The density of the Commercial Blocks as a whole meets all other requirements of this Agreement, including Section 9(b)(v) related to unit reductions.

iii. The City shall retain all interest earned on TDC fees collected up until the time of reimbursement in the City's TDC Fund.

CITY OF LIVERMORE COMMUNITY DEVELOPMENT DEPARTMENT

EXHIBIT F

DEVELOPMENT IMPACT AND CONNECTION FEES

TYPE OF FEE	CITY CODE AND RESOLUTION	WHEN PAYABLE	AMOUNT OF FEE
City Storm Drainage	Title 13.44.020,050,100 Ord. 1923 Reso. 2010-177	With Building Permit	$0.54/SF Impervious Surface
County Storm Drainage Building Zone 7	ACFC & WCD Co. Ord. 0-2010-001 Reso. R-2001-4	With Building Permit	$1.00/SF Impervious Surface
County Storm Drainage Public Improvements e.g. streets, sidewalks, trails, etc.	ACFC & WCD Co. Ord. 0-2010-001 Reso. R-2001-4	With filing of Final Map or approval of Improvement Plans	$1.00/SF Impervious Surface
County Storm Drainage - Capital Improvements	ACFC & WCD Co. Ord. 0-2010-001 Reso. R-2001-4	With award of contract	$1.00/SF Impervious Surface
Sanitary Sewer Connection	Title 13.28.050 Ord. 1740 Reso. 2010-177	With Building Permit	**See Attached Exhibit "A"**
Park Land Dedication	Title18.32.020 Ord. 1744 Reso. 2004-259	Concurrently with, or before the filing of the first parcel or final map	The City may approve a credit against the Park Facilities Fee for park land dedication made under LMC 18.32.020. The credit may not exceed the value of the dedication requirement. See LMC 12.60.070 for credit details N/A for Non-Residential
Park Facilities Fee	Title 12.60 Ord. 1743 Reso. 2005-152	With Building Permit	**See Attached Exhibit "B"**
City Water Connection (1)	Title 13.20.020 Ord. 1507 Reso. 2010-177	With Building Permit	5/8" $5,340 3/4" $8,009 1" $13,349 1-1/2" $26,698 2" $42,717 Price per User for Meter Size, FOR LARGER METERS, INQUIRE
Alameda County Water Connection Zone 7	Ord. FC 72-1 as amended by FC-96-1792 and updated 10-20-10	With Building Permit **See Zone 7 Attachment**	5/8" $34,530 3/4" $51,795 1" $86,325 Price per User for Meter Size, FOR LARGER METERS, INQUIRE
In-Lieu Low Income Housing Fee (Residential) For Sale & Neighborhood Plan Areas	Title 3.26 Reso. 2021-181 Ord. 1988 and 1989	With Building Permit	$39.94/SF for all residential housing developments 10 units or less. Projects more than 10 units are subject to must-build requirement of ordinance. Rental projects 10 units or less are exempt from In-Lieu. Effective 7/28/21, on-site requirement applies for 11+unit projects.
Low Income Housing Impact Fee (Commercial and Industrial)	Title 3.26 Reso. 99-18 Ord. 1549	With Building Permit	**Commercial** — **Unit** — **KSF Fee per Unit** Retail Commercial — KSF — $1,935 Discount/Service Retail — KSF — $1,457 Office Commercial — KSF — $1,243 Hotels/Motels — Room — $949 **Industrial** Manufacturing — KSF — $597 Warehouse/Storage — KSF — $173 Business/Commercial Park — KSF — $1,234 Industrial, High Intensity — KSF — $612 Industrial, Low Intensity — KSF — $387

(1) Areas within the California Water Service Area do not pay a City water connection fee. Areas within the Greenville/Vasco Assessment District or within Triad Park do not pay a City water connection fee. The fee for a single family residential unit is the 5/8 inch meter fee.

(2) All projects within the Downtown Specific Plan are subject to both City Wide General Plan & Downtown Specific Plan cost recovery. Any project that paid planning entitlement fees prior to July 27, 2008 is not subject to this fee, regardless of when they pull building permits.

NOTE: Subject to adjustment each year per Construction Cost Index

NOTE: No impact fees can be charged for ADUs less than 750 square feet. Impact fees allowed for ADUs 750 square feet or larger but shall be charged proportionately in relation to square footage of the primary dwelling.

CITY OF LIVERMORE COMMUNITY DEVELOPMENT DEPARTMENT

DEVELOPMENT IMPACT AND CONNECTION FEES

TYPE OF FEE	CITY CODE AND RESOLUTION	WHEN PAYABLE	AMOUNT OF FEE
Traffic Impact Fee **NOTE:** If special Assessment District exists, special calculations are required	For info regarding the appropriate development categories see Section 12.30 of the City of Livermore Municipal Code Reso 2005-151 Ord. 1742	With Building Permit	**See Attached Exhibit "C"**
Tri-Valley Transportation Development (TVTD) Fee See Attached Annual Adjustment to TVTD Fee	Title 12.24.050 Ord. 2012 Reso. 2014-184 *Reso 2015-01 **Reso 2019-03	With Building Permit	Residential — Fee Per Unit Single family — $5,057.00 Multi-family — $3,484.00 Affordable Housing* — $0.00 ADU/SDU** — $0.00 Non Residential — Per KSF Retail — $3,740.00 Office — $8,590.00 Industrial — $5,000.00 Average Peak Hour Trip Other — $5,620.00

SCHOOL IMPACT FEES:

The City of Livermore collects School Mitigation Development Fees (school fees) on behalf of the Livermore Valley Joint Unified School District. The fees must be paid for by cash or a check made out to the City of Livermore. Fees are due upon issuance of a qualifying building permit.
See Attached Exhibit "D"

SOCIAL / HUMAN SERVICES FACILITY

Social/Human Services Facility Fee	Title 12.70 Ord. 1851	With Building Permit	**See Attached Exhibit "E"**

ART IN PUBLIC PLACES

Art in Public Places Fee (Development)	Ord. 1836	Title 12.51	0.33% of total project valuation
Public Art Enrichment (CIPs)	Ord. 2065	Title 12.50	1.0% of total project valuation

DOWNTOWN SPECIFIC PLAN DEVELOPMENT FEES

TYPE OF FEE	CITY RESOLUTION	AMOUNT OF FEE
In-Lieu Payment for Public Open Space	Resolution 2005-041	$50 per square foot of required open space
In-Lieu Parking Fee	Resolution 2017-006	$22,890.31
Downtown Revitalization Fee	Title 12.32	Residential — Fee Per Unit Dwelling Unit — $6,988 Non Residential (6) — Per SF Retail/Office — $21.53

SOUTH LIVERMORE VALLEY SPECIFIC PLAN DEVELOPMENT FEES (1)

TYPE OF FEE	CITY CODE AND RESOLUTION	FEE PER RESIDENTIAL UNIT
Plan preparation fee	Resolution 2003-114	$1,706
Recycled water fee	Resolution 98-175	20% of the current Alameda County Water Connection Fee
Major attraction fee	Resolution 2003-114	$1,562
South Livermore Road Improvement fee	Resolution 2003-114	$13,229

City Wide - Transferrable Development Credits (TDC) Program In-Lieu Fee
Ordinance 1979, Development Code Section 4.02.06D

1.5 Credits per single-family detached dwelling, in excess of baseline density within a density range of 1-7 du/acre, 1.25 credits per single family detached dwelling in excess of baseline density within a density range of 8-14 du/acre and 1/2 credit per multi-family attached dwelling - Current In-Lieu credit is $16,352.31. TDC Ordinance does not apply to residential projects in Downtown Specific Plan, affordable units covered by an agreement and residential projects that have received housing units through the City's Housing Implementation Program (HIP).

(1) Areas within the California Water Service Area do not pay a City water connection fee. Areas within the Greenville/Vasco Assessment District or within Triad Park do not pay a City water connection fee. The fee for a single family residential unit is the 5/8 inch meter fee.

(2) All projects within the Downtown Specific Plan are subject to both City Wide General Plan & Downtown Specific Plan cost recovery. Any project that paid planning entitlement fees prior to July 27, 2008 is not subject to this fee, regardless of when they pull building permits.

NOTE: Subject to adjustment each year per Construction Cost Index

NOTE: No impact fees can be charged for ADUs less than 750 square feet. Impact fees allowed for ADUs 750 square feet or larger but shall be charged proportionately in relation to square footage of the primary dwelling.

CITY OF LIVERMORE
COMMUNITY DEVELOPMENT DEPARTMENT

EXHIBIT A
Wastewater Connection Fee Schedule
(fees Calculated from base year)

User Classification	Avg Daily Wastewater Flow Factor Gallons Per Day/Unit	Unit[1]	Cost Per GPD	Cost Per Unit
Residential (BOD & SS = 285 mg/L)				
Single-family residential	180	House	$44.26	$7,966.31
Multi-family residential				
Studio	95	Residential Unit	$44.26	$4,204.44
One Bedroom	107	Residential Unit	$44.26	$4,735.53
Two Bedroom	138	Residential Unit	$44.26	$6,107.50
Three Bedroom	157	Residential Unit	$44.26	$6,948.39
Four Bedroom	180	Residential Unit	$44.26	$7,966.31
Commercial (BOD & SS = 285 mg/L unless otherwise shown)				
Auto repair shops/Auto dealers	0.11	Square Foot of Bldg	$44.26	$4.87
Assembly Facilities[2]	0.15	Square Foot of Bldg	$44.26	$6.64
Eating drinking facilities w/o cooking	0.35	Square Foot of Bldg	$44.26	$15.49
Gas Stations	0.47	Square Foot of Bldg	$44.26	$20.80
General Use	0.04	Square Foot of Bldg	$44.26	$1.77
Gyms, Health Clubs	0.30	Square Foot of Bldg	$44.26	$13.28
Hotels, Motels (excluding dining facilities)	0.15	Square Foot of Bldg	$44.26	$6.64
Markets	0.19	Square Foot of Bldg	$44.26	$8.41
Mixed Use[3]	0.10	Square Foot of Bldg	$44.26	$4.43
Medical/Dental Office/ Clinic	0.22	Square Foot of Bldg	$44.26	$9.74
Restaurants (1,000 mg/L BOD, 600 mg/L SS)	0.55	Square Foot of Bldg	$65.22	$35.87
Warehouse/Distribution	0.01	Square Foot of Bldg	$44.26	$0.44
Industrial/Other (Other Wastewater Customers Not Listed Above)				

Calculate Case-by-Case Based on Actual Flows/Strengths and Following Rates

Connection Fee = (F x "Flow") + (B x "BOD") + (S x "SS")

F = Flow cost $/gpd $34.28

B = BOD cost $/lb-day $2,981.54

S = SS cost $/lb-day $1,213.68

discharge

flow, in

"BOD" = The

"SS" = The

Governing Municipal Code Section: 13.28.050

Index Used: ENR 20- City Construction Cost Index

Indices:	*Base Year* (A)	*Previous Fee Update* (B)	*Current Fee Update* (C)	*% Change Previous Update to Current Update* (D) =(C/B)-1
Index Date	May-10	Jun-22	Jun-23	
Index Value	8,761.47	13,110.50	13,229.57	0.91%

Discussion:

The base year unit fees for Flow, BOD, and SS were determined in the March 2010 Wastewater, Water, Storm Drain Connection Fee Study for Expansion of Sanitary Sewer, Water Reclamation Plant, and Wastewater Disposal Facilities prepared for the City of Livermore by Craig R. Lawson Utility Management Consultant.

Notes:

1. Building square footage means the square footage sum of the floor area at each floor level included with the surrounding principal outside faces of exterior walls of a building or portions thereof, including mezzanines and lobbies. It does not include floor area devoted to vehicle parking, necessary interior driveways and ramps. The gross floor area of a building or portions thereof that doesn't have surrounding exterior walls shall include the usable area under the horizontal projection of the roof or floor above.

2. Theaters can alternately estimate daily flow based on 2 gallons per seat ($87.72 per seat)

3. Mixed Use applies to parcels with Mixed Use zoning in the Downtown Core District and in the INSP.

4. This value is based by formula on BOD

6. Adjustments. The city council may, by resolution, adjust the fee schedule, including the flow factors, from time to time. Once the fee is established, it shall automatically be increased annually based upon the Engineering News Record (ENR) 20- City construction Cost Index. In calculating the adjustment, the rate (in each use category, including the flow, BOD and SS costs) for the base year is multiplied by the index for the then-current year, divided by the base year index.

CITY OF LIVERMORE
COMMUNITY DEVELOPMENT DEPARTMENT

EXHIBIT B
Park Facilities Fee Schedule

LAND USE	TOTAL FEE
Residential (per dwelling unit)	
Single Family (& 4 bedroom multi-family)	$25,065
Multi-Family 3 bedrooms	$21,809
Multi-Family 2 bedrooms	$19,220
Multi-Family 1 bedroom	$14,872
Multi-Family Studio	$13,288
Senior Housing	$4,265
Non-Residential (per 1,000 sq ft)	
Commercial	$3,178
Office	$4,544
Industrial	$2,113
Warehouse	$1,587

Source - Park Facilities Fee Study (2004) Table 8; MuniFinancial

EXHIBIT C

Traffic Impact Fees Schedule

Land Uses	Units of Use	Fee Rates
Citywide Except Downtown		
Residential		
Single-Family	d.u.	$11,869
Multi-Family		
Studio	d.u.	$5,531
1 Bedroom	d.u.	$6,193
2 Bedroom	d.u.	$8,002
3 or more Bedroom	d.u.	$9,358
Senior Housing	d.u.	$3,642
Commercial	K s.f.	$32,235
Office	K s.f.	$20,636
Industrial	K s.f.	$12,812
Warehouse	K s.f.	$6,473
Hotel/Motel	per/room	$9,306
Downtown Specific Plan		
Multi-Family		
Studio	d.u.	$3,395
1 Bedroom	d.u.	$3,802
2 Bedroom	d.u.	$4,913
3 or more Bedroom	d.u.	$5,745
Commercial	K s.f.	$14,595
Other	Average Peak Hour Trip	$14,883

Exhibit "D"

LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT
SUMMARY OF SCHOOL MITIGATION PROGRAM

Livermore Valley Joint Unified School District
Resolution: 008 - 22/23 - Fee Effective October 8, 2022

INDUSTRIAL/WAREHOUSE/MANUFACTURING	$0.78/sq.ft.
OFFICE	$0.78/sq.ft.
RESEARCH & DEVELOPMENT	$0.78/sq.ft.
HOSPITALS	$0.78/sq.ft.
RETAIL & SERVICES	$0.624/sq.ft.
HOTEL/MOTEL:	$0.316/sq.ft.
SELF STORAGE	$0.06/sq.ft.
RESIDENTIAL:	$4.79/sq.ft.

(Includes single family home, multi-family home, manufactured home, and mobile home)

SENIOR HOUSING	$0.78/sq.ft.

(Includes manufactured home or mobile home located in a mobile home park, subdivision, cooperative or condominium for mobile homes limited to 55 and older residents.)

RESIDENTIAL ADDITIONS	$4.79/sq.st. (501 sq.ft. or more)

(Residential additions 500 sq.ft. or less and senior housing projects are exempt)

* Additions are cumulative over time to a limit of 500 sf before fees are assesed. Once assessed, fees are paid on the entire added square footage.

** The fee owed is based upon the fee amount in effect at the time the fee is paid.

LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT
685 East Jack London Blvd, Livermore, Ca 94551

FACILITIES PLANNING AND CONSTRUCTION
Jan Shipley, Construction Supervisor (925) 606-3390
Facilities Fax Number (925) 606-3327

EXHIBIT E
Social and Human Service Facility Fee Schedule

Land Uses	Units of Use	Fee Rates
Residential Uses		
Single-Family Detached	d.u.	$1,677
Single-Family Attached	d.u.	$1,415
Multi-Family	d.u.	$1,298
Mobile Home	d.u.	$996
Secondary Unit	d.u.	$996
Non-Residential Uses		
Commercial		
Office	K s.f.	$7
Retail	K s.f.	$5
Service	K s.f.	$5
Industrial		
Manufacturing/R&D	K s.f.	$3
Warehousing	K s.f.	$2
Office	K s.f.	$6
Construction/Repair/Wholesale	K s.f.	$3
Other Non-Residential	K s.f.	$5

ZONE 7 WATER AGENCY
Delivering Quality, Reliability and Safety

100 North Canyons Parkway
Livermore, CA 94551
(925) 454-5000

December 13, 2023

Andrew Hall
City of Livermore
101 W. Jack London Blvd.
Livermore, CA 94550

Subject: 2024 Municipal and Industrial (M&I) Water Connection Fee Increase

Dear Andrew Hall,

This letter is to inform you that on October 18, 2023, the Zone 7 Board of Directors voted to increase the basic connection fee for the Zone 7 and Dougherty Valley service areas. Within Alameda County, the basic fee (5/8-inch size displacement type meter) will increase to **$34,530** from $33,730, and within Contra Costa County (Dougherty Valley) the basic fee (5/8-inch size displacement type meter) will increase to **$33,130** from $32,360, **all effective January 1, 2024**. A new water service connection fee schedule is enclosed. Please distribute revised fee schedule to appropriate staff.

If there are any questions, please contact me at jli@zone7water.com or at (925) 454-5017. Thank you for your help in this matter.

Sincerely yours,

Junming Li
Junior Engineer

Enclosure

Cc: Paul Spence, City of Livermore, Community Development Director
Franc Moufarrej, City of Livermore, Building Official
Valerie Pryor, Zone 7, General Manager
Osborn Solitei, Zone 7, Assistant General Manager
Jarnail Chahal, Zone 7, Acting Assistant General Manager
JaVia Green, Zone 7, Financial Analyst
Elizabeth Foss, Zone 7, Financial Analyst
Ken Minn, Zone 7, Groundwater Resources Manager

ZONE 7 WATER AGENCY
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WATER CONNECTION FEE INFORMATION SHEET

New fee schedule effective January 1, 2024

I. GENERAL BACKGROUND

A. The Water Connection Charge Ordinance No. FC 72-1 as amended for Zone 7 was established January 18, 1972. The ordinance is applicable over the Zone 7 area that includes Livermore, Pleasanton, Dublin, Sunol, and surrounding communities. The Ordinance requires a one-time water connection fee for all new water services from a water system that is directly connected to the Zone 7 water supply system. This fee is used for funding the costs of expanding the Zone 7 water treatment and distribution system to serve new development.

B. The amount charged for a water connection is determined by the size of the meter to be installed. The meter sizes and corresponding water connection fees are listed below.

II. PROCEDURES FOR PAYMENT OF WATER CONNECTION FEES IN LIVERMORE, PLEASANTON, & DUBLIN

The water connection fees are collected by the Building Departments of the Cities of Livermore and Pleasanton, and by the Dublin San Ramon Services District, which are agents for Zone 7. For that area within the California Water service area which is located outside of the Livermore city limits, connection fees will be paid at the Zone 7 office in Livermore.

III. WATER CONNECTION FEE SCHEDULE - FEES ARE REVIEWED AND SUBJECT TO PERIODIC MODIFICATION

Meter Size	Meter Brand/Type	Fee Factor	Connection Fee
5/8" & 1" FS	DISPLACEMENT TYPE	10	$34,530
3/4"	DISPLACEMENT TYPE	15	$51,795
1"	DISPLACEMENT TYPE	25	$86,325
3/4" Short Diehl	ULTRASONIC METER **(Pleasanton only)**	30	$103,590
3/4" Long Diehl	ULTRASONIC METER **(Pleasanton only)**	30	$103,590
1" Diehl	ULTRASONIC METER **(Pleasanton only)**	55	$189,915
1" Kamstrup	ULTRASONIC METER **(Livermore only)**	55	$189,915
1 1/2"	DISPLACEMENT TYPE	50	$172,650
	KAMSTRUP ULTRASONIC **(Pleasanton only)**	120	$414,360
	OMNI C2	160	$552,480
	OMNI T2	160	$552,480

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2"	OMNI WITH 50 GPM RESTRICTION	50	$172,650
	DISPLACEMENT TYPE	80	$276,240
	OMNI WITH 80 GPM RESTRICTION	80	$276,240
	Mueller MVR	115	$397,095
	OMNI WITH 120 GPM RESTRICTION	120	$414,360
	SENSUS SR/SRII	160	$552,480
	KAMSTRUP SHORT ULTRASONIC **(Pleasanton only)**	160	$552,480
	KAMSTRUP LONG ULTRASONIC **(Pleasanton only)**	160	$552,480
	OMNI C2	160	$552,480
	OMNI T2	200	$690,600
	evoQ4 MAGNETIC **(Pleasanton only)**	220	$759,660

Note - Connection fees for meters 3-inch and larger and for meters with fee factors other than those listed above, will be determined by Zone 7, using the fee factor for Maximum Rate for Continuous Operation, as defined by AWWA. These fees are based on the Maximum Continuous Flow Rate through a 5/8" meter and are proportional based on flow ratings for the various sized meters. Flow ratings for displacement type meters are defined by AWWA C700 for Cold-Water Meter -- Displacement Type, Bronze Case. Flow ratings for turbine type meters are defined by AWWA C701 for Cold Water Meters -- Turbine Type, For Customer Service. Any changes to meter capacities will affect the above connection fees.

IV. EXEMPTIONS

No fee will be collected for SEPARATE private fire service connections. See Section VI of the Ordinance (copy available upon request).

V. PARTIAL EXEMPTIONS

A partial exemption sometimes applies for domestic fire sprinkling systems up to 1" meter size. See Section VI of the Ordinance (copy available upon request).

VI. FOR FURTHER INFORMATION

Contact Junming Li at (925) 454-5017, or jli@zone7water.com.

Zone 7 M&I Connection Fee Rate Schedule

Effective January 1, 2024

Meter Size	Meter Brand/Type	Recommended Maximum Rate for Continuous Use (gpm)	Connection Fee Amount
5/8" & 1" FS*	DISPLACEMENT TYPE	10	$34,530
3/4"	DISPLACEMENT TYPE	15	$51,795
1"	DISPLACEMENT TYPE	25	$86,325
3/4" Short Diehl	ULTRASONIC METER **(Pleasanton only)**	30	$103,590
3/4" Long Diehl	ULTRASONIC METER **(Pleasanton only)**	30	$103,590
1" Diehl	ULTRASONIC METER **(Pleasanton only)**	55	$189,915
1" Kamstrup	ULTRASONIC METER **(Livermore only)**	55	$189,915
1 1/2"	DISPLACEMENT TYPE	50	$172,650
	KAMSTRUP ULTRASONIC **(Pleasanton only)**	120	$414,360
	OMNI C2	160	$552,480
	OMNI T2	160	$552,480
2"	OMNI WITH 50 GPM RESTRICTION	50	$172,650
	DISPLACEMENT TYPE	80	$276,240
	OMNI WITH 80 GPM RESTRICTION	80	$276,240
	Mueller MVR	115	$397,095
	OMNI WITH 120 GPM RESTRICTION	120	$414,360
	SENSUS SR/SRII	160	$552,480
	KAMSTRUP SHORT ULTRASONIC **(Pleasanton only)**	160	$552,480
	KAMSTRUP LONG ULTRASONIC **(Pleasanton only)**	160	$552,480
	OMNI C2	160	$552,480
	OMNI T2	200	$690,600
	evoQ4 MAGNETIC **(Pleasanton only)**	220	$759,660
3" to 10"			**

* Per Fee Ordinance Section VI, combined domestic and fire service connections are subject to the connection charge based on the meter size for the combined system, except the basic charge shall be collected for combined systems, up to a maximum one-inch (1") meter size, for single family and duplex housing units with fire sprinkler systems approved by the appropriate fire department and installed in accordance with applicable building requirements. Contact the Zone 7 office with any additional questions.

** Connection fees for meter sizes 3-inches and above will be determined by using the fee factor for maximum rate for continuous use.

Fees for meters other than those listed above will be determined based upon the AWWA maximum continuous flow rating for the brand, type, and size of meter.

These fees are based on the Maximum Continuous Flow Rate through a 5/8" meter as defined by AWWA C700 for Cold-Water Meter -- Displacement Type, Bronze Case. Any changes to meter capacities will affect the above connection fees.

Currently, the Diehl, Kamstrup, & evoQ4 meters are only available in Pleasanton and/or Livermore as indicated in the table.

RESOLUTION NO. 044-19/20

TO UPDATE STATUTORY DEVELOPER FEES IMPOSED ON NEW RESIDENTIAL AND COMMERCIAL/INDUSTRIAL DEVELOPMENT PROJECTS PURSUANT TO EDUCATION CODE SECTION 17620

WHEREAS, the School Board ("Board") of the Livermore Valley Joint Unified District ("District") provides for the educational needs for TK-12 students within the City of Livermore and a portion of the unincorporated counties of Alameda and Contra Costa (collectively, "Counties"); and

WHEREAS, The State Allocation Board has taken action pursuant to Government Code Section 65995(b)(3), which authorizes Districts to increase Statutory Developer Fees to $4.08 per square foot for assessable space of residential development and $0.66 per square foot of chargeable covered and enclosed space for all categories of commercial/industrial development, as long as such Statutory Developer Fees are properly justified by the District pursuant to law; and

WHEREAS, new residential and commercial/industrial development continues to generate additional students for the District's schools and the District is required to provide school facilities ("School Facilities") to accommodate those students; and

WHEREAS, overcrowded schools within the District would have an impact on the District's ability to provide an adequate quality education and negatively impacts the educational opportunities for the District's students; and

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of the School Facilities, including acquisition of sites, construction of permanent School Facilities, and acquisition of interim School Facilities, to accommodate students from new residential and commercial/industrial development; and

WHEREAS, the Board of the District has received and considered two studies entitled "Residential Development School Fee Justification Study for Livermore Valley Joint Unified District" and "Commercial/Industrial Development School Fee Justification Study for Livermore Valley Joint Unified District" ("Studies"), which Studies include information, documentation, and analysis of the School Facilities needs of the District, including (a) the purpose of the Statutory Developer Fees; (b) the use to which the Statutory Developer Fees are to be put; (c) the nexus (roughly proportional and reasonable relationship) between the residential and commercial/industrial development; and (1) the use for Statutory Developer Fees; (2) the need for School Facilities; (3) the cost of School Facilities; and the amount of Statutory Developer Fees from new residential and commercial/industrial development; (d) a determination of the impact of the increased number of employees anticipated to result from the commercial/industrial development (by category) upon the cost of providing School Facilities within the District; (e) an evaluation and projection of the number of students that will be generated by new residential development; (f) the new School Facilities that will be required to serve such students; and (g) the cost of such School Facilities; and

WHEREAS, said Studies pertaining to the Statutory Developer Fees and to the capital facilities needs of the District were made available to the public as required by law before the Board considered at a regularly scheduled public meeting the Statutory Developer Fees; and

WHEREAS, all required notices of the proposed Statutory Developer Fees have been given; and

WHEREAS, a Public Hearing was held at a regularly scheduled meeting of the Board of the District relating to the proposed Statutory Developer Fees; and

WHEREAS, Education Code Section 17621 provides that the adoption, increase or imposition of any fee, charge, dedication, or other requirement, pursuant to Education Code Section 17620 shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

NOW, THEREFORE, THE SCHOOL BOARD OF THE LIVERMORE VALLEY JOINT UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. That the Board accepts and adopts the Studies.

Section 2. That the Board finds that the purpose of the Statutory Developer Fees imposed upon new residential development is to fund the additional School Facilities required to serve the students generated by the new residential development upon which the Statutory Developer Fees are imposed.

Section 3. That the Board finds that the Statutory Developer Fees imposed on new residential development will be used only to finance those School Facilities described in the Study and related documents and that these School Facilities are required to serve the students generated by the new residential development within the District; and that the use of the Statutory Developer Fees will include construction or acquisition of additional School Facilities, remodeling existing School Facilities to add additional classrooms, and technology, and acquiring and installing additional portable classrooms and related School Facilities, with the specific location of new schools, remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such new residential development, as well as any required central administrative and support facilities, within the District.

Section 4. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Statutory Developer Fees and the new residential development within the District because the Statutory Developer Fees imposed on new residential development by this Resolution, will be used to fund School Facilities which will be used to serve the students generated by such new residential development.

Section 5. That the Board finds that there is a roughly proportional, reasonable relationship between the new residential development upon which the Statutory Developer Fees are imposed, and the need for additional School Facilities in the District because new students will be generated from new residential development within the District and there is not sufficient capacity in the existing School Facilities to accommodate all additional students.

Section 6. That the Board finds that the amount of the Statutory Developer Fees levied on new residential development as set forth in this Resolution is roughly proportional and reasonably related to, and does not exceed the cost of, providing the School Facilities required to serve the students generated by such new residential development within the District.

Section 7. That the Board finds that the purpose of the Statutory Developer Fees imposed on new commercial/industrial development is to fund the additional School Facilities required to serve the students generated by the new commercial/industrial development upon which the Statutory Developer Fees are imposed.

Section 8. That the Board finds that the Statutory Developer Fees imposed on new commercial/industrial development (by category) will be used only to finance those School Facilities described in the Studies and related documents and that these School Facilities are required to serve the students generated by such new commercial/industrial development; and that the use of the Statutory Developer Fees will include construction or acquisition of additional School Facilities, remodeling existing School Facilities to add additional classrooms and technology, and acquiring and installing additional portable classrooms and related facilities, with the specific location of new schools, remodeling of existing School Facilities, and additional portables to be determined based on the residence of the students being generated by such new commercial/industrial development, as well as any required central administrative and support facilities within the District.

Section 9. That the Board finds that there is a roughly proportional, reasonable relationship between the use of the Statutory Developer Fees and new commercial/industrial development by category within the District because the Statutory Developer Fees imposed on commercial/industrial development by this Resolution will be used to fund School Facilities which will be used to serve the students generated by such new commercial/industrial development.

Section 10. That the Board finds that there is a roughly proportional, reasonable relationship between the new commercial/industrial development by category, upon which the Statutory Developer Fees are imposed, and the need for additional School Facilities in the District because new students will be generated from new commercial/industrial development within the District and the District does not have sufficient student capacity in the existing School Facilities to accommodate these anticipated students.

Section 11. That the Board finds that the amount of the Statutory Developer Fees levied on new commercial/industrial development by category as set forth in this Resolution is roughly proportional and reasonably related to and does not exceed the cost of providing the School Facilities required to serve the students generated by such new commercial/industrial development within the District.

Section 12. That the Board finds that a separate account has been established for the deposit of Statutory Developer Fees imposed on residential and commercial/industrial development and that said account has at all times since been separately maintained, except for temporary investments, from other funds of the District.

Section 13. That the Board finds that the funds of the account, described in Section 12, consisting of the proceeds of Statutory Developer Fees have been imposed for the purposes of constructing and reconstructing those School Facilities necessitated by new residential and commercial/industrial development, and thus, these funds may be expended for those purposes. The Statutory Developer Fees may also be expended by the District for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code. In addition, the District may also retain, as appropriate, an amount not to exceed in any fiscal year, three percent (3%) of the fees collected in that fiscal year pursuant to Education Code Section 17620 for reimbursement of the administrative costs incurred by the District in collecting the Statutory Developer Fees.

Section 14. That the Board hereby increases the Statutory Developer Fees as a condition of approval of new residential development projects and imposes the Statutory Developer Fees on such development projects in the following amounts:

A. $4.08 per square foot of assessable space for new single family detached residential development and new multifamily attached residential development, including new residential projects, manufactured homes and mobile homes as authorized under Education Code Section 17625, and including residential construction other than new construction where such construction results in an increase of assessable space, as defined in Government Code Section 65995, in excess of 500 square feet. However, these amounts shall not be imposed on any development project used exclusively for housing senior citizens, as described in Civil Code Section 51.3, or as described in Subdivision J of Section 1569.2 of the Health and Safety Code or paragraph 9 of subdivision (d) of Section 15432 of the Government Code or any mobile home or manufactured home that is located within a mobile home park, subdivision, cooperative or condominium for mobile homes limited to older persons as defined by the Federal Fair Housing Amendments of 1988.

B. $0.66 per square foot of assessable space for new residential development used exclusively for the housing of senior citizens, as described in Section 51.3 of the Civil Code or as described in subdivision J of Section 1569 of the Health and Safety Code or paragraph 9 of subdivision (d) of Section 15432 of the Government Code or any mobile home or manufactured home that is located within a mobile home park, subdivision, cooperative or condominium for mobile homes limited to older persons as defined by the Federal Fair Housing Amendments of 1988.

Section 15. That this Board hereby increases the Statutory Developer Fees as a condition of approval of new commercial/industrial development projects and levies the Statutory Developer Fees on such development projects in the following amounts per square foot of chargeable covered and enclosed space for the following categories of commercial/industrial development:

Retail and Services	$0.624
Office	$0.66
Research and Development	$0.66
Industrial/Warehouse/Manufacturing	$0.66
Hospitals	$0.66
Hotel/Motel	$0.316
Self-Storage	$0.018

Section 16. That the proceeds of the Statutory Developer Fees established pursuant to this Resolution shall continue to be deposited into that account identified in Section 12 of this Resolution, the proceeds of which shall be used exclusively for the purpose for which the Statutory Developer Fees are to be collected, including accomplishing any study, findings or determinations required by subdivisions (a), (b) and (d) of Section 66001 of the Government Code or retaining an amount not to exceed in any fiscal year, three percent (3%) of the fees collected in that fiscal year pursuant to Education Code Section 17620 for

reimbursement of the administrative costs incurred by the District in collecting the Statutory Developer Fees or in financing the described Study or in defending the imposition of Statutory Developer Fees.

Section 17. That the Superintendent, or her designee, is directed to cause a copy of this Resolution to be delivered to the building official of the Cities and Counties within the District's boundaries and the Office of Statewide Health Planning and Development ("OSHPD") along with a copy of all the supporting documentation referenced herein and a map of the District clearly indicating the boundaries thereof, advising the Cities, Counties, and OSHPD that new residential and commercial/industrial development is subject to the Statutory Developer Fees readopted pursuant to this Resolution and requesting that no building permit or approval for occupancy be issued by any of these entities for any new residential development project, mobile home, or manufactured home subject to the Statutory Developer Fees absent a certification from this District of compliance of such project with the requirements of the Statutory Developer Fees, nor that any building permit be issued for any non-residential development absent a certification from this District of compliance with the requirements of the applicable Statutory Developer Fees.

Section 18. That the Board hereby establishes a process that permits the party against whom the commercial/industrial Statutory Developer Fees are imposed, the opportunity for a hearing to appeal that imposition of Statutory Developer Fees for commercial/industrial development as required by Education Code Section 17621(e)(2). The appeal process is as follows:

A. Within ten (10) calendar days of being notified, in writing, (by personal delivery or deposit in the U.S. Mail) of the commercial/industrial Statutory Developer Fees to be imposed or paying the commercial/industrial Statutory Developer Fees, pursuant to Education Code Section 17620, a party shall file a written request for a hearing regarding the imposition of commercial/industrial Statutory Developer Fees. The party shall state in the written request the grounds for opposing the imposition of commercial/industrial Statutory Developer Fees and said written request shall be served by personal delivery or certified or registered mail to the Superintendent of the District.

B. The possible grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial/industrial Statutory Developer Fees are to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project.

C. Within ten (10) calendar days of receipt of the written request for a hearing regarding the imposition of commercial/industrial Statutory Developer Fees, the Superintendent of the District, or her designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of commercial/industrial Statutory Developer Fees. The Superintendent, or her designee, shall schedule and conduct said hearing within thirty (30) calendar days of receipt of the written request. The Superintendent, or her designee, shall render a written decision within ten (10) days following the hearing on the party's appeal and serve it by certified or registered mail to the last known address of the party.

D. The party against whom the commercial/industrial Statutory Developer Fees are imposed may appeal the Superintendent's, or her designee's, decision to the Board of the District.

E. The party appealing the Superintendent's, or her designee's decision, shall state in the written appeal the grounds for opposing the imposition of the commercial/industrial Statutory Developer Fees and said written appeal shall be served by personal delivery or certified or registered mail to the Superintendent of the District.

F. The possible grounds for that appeal to the Board of the District include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial/industrial Statutory Developer Fees are to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project.

G. Within ten (10) calendar days of receipt of the written request for a hearing regarding the imposition of commercial/industrial Statutory Developer Fees, the Superintendent of the District, or her designee, shall give notice in writing of the date, place and time of the hearing to the party appealing the imposition of commercial/industrial Statutory Developer Fees. The Board of the District shall schedule and conduct said hearing at the next regular meeting of the Board, provided that the party is given notice at least five (5) working days prior to the regular meeting of the Board. The Board shall render a written decision within ten (10) days following the hearing on the party's appeal and serve the decision by certified or registered mail to the last known address of the party.

H. The party appealing the imposition of the commercial/industrial Statutory Developer Fees shall bear the burden of establishing that the commercial/industrial Statutory Developer Fees are improper.

Section 19. That the Superintendent is authorized to cause a certificate of compliance to be issued for each development project, mobile home and manufactured home for which there is compliance with the requirement for payment of the Statutory Developer Fees in the amount specified by this Resolution. In the event a certificate of compliance is issued for the payment of Statutory Developer Fees for a development project, mobile home or manufactured home and it is later determined that the statement or other representation made by an authorized party concerning the development project as to square footage is untrue, then such certificate shall automatically terminate, and the appropriate City shall be so notified.

Section 20. That no statement or provision set forth in this Resolution, or referred to therein shall be construed to repeal any preexisting fee previously imposed by the District on any residential or nonresidential development.

Section 21. That the District's Statutory Developer Fees will become effective sixty (60) days from the date of this Resolution unless a separate resolution increasing the fees immediately on an urgency basis is adopted by the Board.

APPROVED AND ADOPTED by roll call vote this 17th day of March 2020.

AYES:	Bueno ✓	Prusso ✓	Rogge ✓	Wenzel ✓	White ✓
NOES:	Bueno_____	Prusso_____	Rogge_____	Wenzel_____	White_____
ABSTENTIONS:	Bueno_____	Prusso_____	Rogge_____	Wenzel_____	White_____
ABSENT:	Bueno_____	Prusso_____	Rogge_____	Wenzel_____	White_____

BY:

President of the Board of Education Livermore
Valley Joint Unified School District of Alameda
County and Contra Costa County, State of California

ATTEST:

Clerk of the Board of Education Livermore
Valley Joint Unified School District of Alameda
County and Contra Costa County, State of California

Scott Perkins
TVTC Chair
Vice Mayor
San Ramon
(925) 973-2544

Jean Josey
TVTC Vice-Chair
Councilmember
Dublin
(925) 833-2530

Renee Morgan
Mayor
Town of Danville
(925) 918-3999

David Haubert
Supervisor District 1
Alameda County
(925) 551-6995

Candace Andersen
Supervisor District 2
Contra Costa
(925) 957-8860

Brittni Kiick
Councilmember
City of Livermore
(925) 960-4019

Karla Brown
Mayor
City of Pleasanton
(925) 931-5001

To: Tri-Valley Transportation Council

From: TVTC Finance Committee
By: Technical Advisory Committee (TAC)

Date: April 19, 2021

Subject: ADOPT the Tri-Valley Transportation Development Fee Construction Cost Index Annual Adjustment

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BACKGROUND

The Joint Exercise of Powers Agreement (JEPA) for the Tri-Valley Transportation Development Fee (TVTDF) specifies that the TVTDF amounts are to be adjusted automatically as of July 1 of each year to reflect changes in regional construction costs. JEPA Section 3(D)(I) requires the TVTC adopt the adjustment by a simple majority.

DISCUSSION

The amount of the adjustment is based on the change in the "Construction Cost Index" (CCI) for the San Francisco Bay Area, as reported annually in the Engineering News Record (ENR). The December 2020 ENR CCI for the San Francisco Bay Area is **+3.2%**.

RECOMMENDATION

The TVTC Finance Committee recommends the TVTC adopt the Tri-Valley Transportation Development Fee Construction Cost Index Annual Adjustment and notify each TVTC member agency to collect the TVTDF rates as listed below starting **July 1, 2021**:

Single Family Residential	$5,057.00/Dwelling Unit (DU)
Multi-Family Residential	$3,484.00/DU
Office	$8.59/sq. ft. Gross Floor Area
Retail	$3.74/sq. ft. Gross Floor Area
Industrial	$5.00/sq. ft. Gross Floor Area
Other	$5,620.00/average am/pm peak hour trip
ADU/SDU	$0
Affordable Housing	$0

TVTDF Historical Fee Rates

	2019	2020	2021
Single Family Residential (per DU)	$4,650.56	$4,901.00	$5,057.00
Multi-Family Residential (per DU)	$3,203.48	$3,376.00	$3,484.00
Office (per SF Gross Floor Area)	$7.90	$8.33	$8.59
Retail (per SF Gross Floor Area)	$3.41	$3.63	$3.74
Industrial (per SF Gross Floor Area)	$4.60	$4.85	$5.00
Other (average am/pm peak hour trip)	$5,167.00	$5,446.00	$5,620.00
Affordable Housing *	$0.00	$0.00	$0.00
ADU/SDU**	$0.00	$0.00	$0.00

*Pursuant to Resolution 2015-01 Adjusting the Tri-Valley Transportation Development Fee Schedule
**Pursuant to Resolution 2019-03 – Resetting the Accessory Dwelling Unit/Secondary Dwelling Unit Fee in the Tri-Valley Transportation Development Fee Program

EXHIBIT G

FORM OF ESTOPPEL CERTIFICATE

Isabel Portola Owner, LLC
1875 Century Park East, Suite 1130
Los Angeles, CA 90067

RE: Estoppel Certificate – Development Agreement dated _____ by and between the City of Livermore, a California municipal corporation (the "City") and Isabel Portola Owner, LLC, a Delaware limited liability company qualified to do business in California ("Developer"), recorded on _____ as Document No. _____ in the official records of Alameda County, California (the "Development Agreement")

To Whom it May Concern:

Pursuant to the Development Agreement, request has been made of the undersigned to make this Estoppel Certificate to you in your capacity as [status of party requesting Estoppel Certificate], on behalf of the City, in connection with the [event triggering request for Estoppel Certificate] regarding that certain real property described in Recital C of the Development Agreement ("Property"). Capital terms used and not defined herein shall have the same meaning ascribed to them in the Development Agreement.

Pursuant to Section 31 of the Development Agreement, the undersigned, on behalf of the City, certifies as follows:

1. The Development Agreement as defined herein is in full force and effect and has not been amended, modified or assigned, either orally or in writing; and
2. There exists no material default in the performance of the obligations set forth in the Development Agreement, and any and all development obligations affecting the Property have been, to date, satisfied in full.

The undersigned understands that you are relying on this Estoppel Certificate in connection with [event triggering request for Estoppel Certificate]. The statements set forth herein shall be binding only to the extent required by the Development Agreement and for no other purpose and to no other persons or entities.

The City of Livermore, a municipal corporation

By: _____

Name: _____

Its: _____

EXHIBIT H

Introduction

In addition to terms defined elsewhere in the Agreement and its Exhibits, this Exhibit H identifies definitions for convenience.

Definitions

1. "Affordable Housing" means the Low Income Housing Units, the Moderate Income Rental Units, the Median Income Rental Units, the Moderate Income For- Sale Units, and the Median Income For-Sale Units, collectively, as these terms are defined herein.

2. "Commercial Blocks" means Planning Areas C1-B, C2-A, and S1, as shown on Exhibit B (Development Plans).

3. "Commercial Component of Planning Area S1" means a first-floor commercial tenant space of approximately 23,924 square feet as described in Exhibit B (Development Plans).

4. "Commercial Component of Planning Area C2-A" means a first-floor commercial tenant space of at least 27,918 square feet as described in Exhibit B (Concept Design Plan).

5. "Community Benefit Fund" means the City's Community Benefit Fund with the purpose of building a vibrant and amenity-rich community consistent with Isabel Neighborhood Specific Plan goals and Strategic Plan Goals.

6. "Enhanced Paving" means decorative surface designs with greater detail than typical, including unique colors, materials, patterns, etc. Examples of such paving include decorative stamped asphalt, scored asphalt, inlaid thermoplastic, etc., to be located along Main Street and at primary Project entrance points.

7. "Flexible Co-Workspace" means any office use that provides a communal workspace or shared facilities for multiple employers, employees, or users. Such communal or shared space may consist of any of the following: offices, breakrooms, kitchens, restrooms, and any other rooms necessary to facilitate shared office work.

8. "Food Hall" means a marketplace with multiple vendors, with a focus on local vendors or selling locally-sourced food or beverage products. At least 8,000 gross square feet of commercial building space shall be occupied by vendor within the Food Hall that sell fresh, unprepared foods such as meat, fish, dairy, grains, fruit, vegetables, and related items,. The Director may revise the square footage limit upon the written request of the Developer.

9. "Fully Furnished" means the provision of seating, tables, landscape, hardscape, walkways, public art, and other amenities for Outdoor Plaza Areas in Planning Areas C1-C, C2-C, and TS, as identified in Recital F and Exhibit B (Development Plans).

10. "Knox Box" means a mutual locking mechanism installed on building entries to provide 24-

hour fire and law enforcement access to the building.

11. "LARPD" means the Livermore Area Recreation and Park District.

12. "Landing Area" is as described in Exhibit C

13. "Landscaping" means any tree, shrub, or groundcover installed as part of the Phase I or Phase II Project Infrastructure.

14. "Low Income Housing Amount" is as defined in Exhibit D.

15. "Low Income Housing Cash Payment" is as defined in Exhibit D.

16. "Low Income Housing Rental Units" means the Project's units of "low income" multi-family rental housing reserved for "Very Low Income Household" rental housing, as the term is defined in Health & Safety Code, Section 50105, and the units reserved for "Lower Income Household" rental housing, as the term is defined in Health & Safety Code, Section 50079.5.

17. "LIHTC Financing Conditions" is as defined in Exhibit D.

18. "Permanent Commercial Grocer" means a business that generally conforms to NAICS code 445110, "Supermarkets and Other Grocery (except Convenience) Stores." Such establishments are generally known as food markets and grocery stores and primarily engaged in retailing a general line of groceries and sundries and prepared food.

19. "Phase I Project Infrastructure" means all of the following components as depicted in Exhibit C:

    a. *"Primary Internal Improvements"*:

        i. The construction of the first lift of pavement for the Primary Internal Streets, including sidewalks, crosswalks and intersections, and Enhanced Paving, as shown in Exhibit B.

        ii. Main arterial sewer, water, storm water, and joint trench conduit along Primary Internal Streets, as identified in Exhibits B.

        iii. Delivery of mass graded pads within Planning Areas.

        iv. Utilities (sewer, storm drain, water and joint trench conduit only) stubbed to Planning Area S3A, as identified on the VTTM and depicted in Exhibit B.

        v. Delivery of paved, 15,000 square foot temporary commercial activation space with temporary water and power, as described in Exhibit E.

        vi. Sidewalk, curb, gutter, street trees, irrigation (water and power) on Primary Internal Streets and Project Frontage.

        vii. Bioretention areas on Primary Internal Streets.

viii. Trail corridor in the southern side of Planning Areas S1, S2 and S4, providing a pedestrian connection along Isabel Avenue between Gateway Drive and Shea Center Drive.

ix. Street Lighting on Primary Internal Streets.

b. *"Offsite Improvements"*

i. Traffic signal at the intersection of Isabel Avenue and Gateway Avenue.

ii. Traffic signal at the intersection of Isabel Avenue and Street A, including Enhanced Paving in the intersection and in four- legged crosswalks.

iii. Traffic signal at the intersection of Isabel Avenue and Gateway Avenue, including enhanced intersection paving and four-legged crosswalks with enhanced paving.

iv. Traffic signal at the intersection of Portola Avenue and Main.

v. Street, including enhanced intersection paving and four-legged crosswalks with enhanced paving.

vi. Isabel Avenue center median improvements, including curb, planter, landscaping, street trees, irrigation (water and power) connected to the City's centralized irrigation system, etc. from Portola Avenue to Interstate-580 interchange up to the Caltrans Right-of-Way.

vii. Caltrans Embankment Landscaping;

viii. Enhanced at-grade crossing at intersection of Gateway Avenue and Isabel Avenue.

1. The enhanced at grade crossing shall include bulb outs, center median refuge, flashing beacons, or any other features to enhance pedestrian safety, comfort, and visibility.

c. "*Bus Stop Improvements*"

i. Bus stop located on the easternmost northbound lane of Highway 84/Isabel Ave, directly to the north of Street A, as identified in Exhibit B (Development Plans).

ii. Bus stop located on the westernmost southbound lane of Highway 84/Isabel Ave, directly to the south of Street A, as identified in Exhibit B (Development Plans).

iii. Bus Stop located on the westbound lane of Portola Avenue, within 150 east or west of the Cayetano Park entrance.

iv. Concrete pad and shelter for the existing bus stop located on the south side

of Portola Avenue at the Montage Drive intersection.

d. *"Bike Lane Improvements"*

i. Class IV bike lane on the south side of Portola Avenue, aligning from the Project's western property boundary to Isabel Avenue.

ii. Class IV bike lane on the southbound Isabel Avenue frontage between Portola Avenue and the Interstate 580 interchange up to the Caltrans Right-of-Way.

iii. Class IV bike lane on south side of Portola Ave from Collier Canyon Road to the Project's western property boundary.

iv. Class IV bike lane on north side of Portola Avenue from Campus Hill Drive to Montage Drive.

v. Class IV bike lane on the north side of Portola Avenue from Collier Canyon Road to Copper Crest Common.

vi. Class IV bike lane on the north side of Portola Avenue from the Cayetano Park entrance to Campus Hill Drive.

vii. Class IV bike lanes on the east and west sides of Campus Hill Drive, from Portola Avenue to Heligan Lane, subject to the Director's determination if the bike lane will be Class IV or Class II as set forth Exhibit C.

viii. Separated bike islands at the southwest, northwest, and northeast corners of the Isabel Avenue/Portola Avenue intersection, as shown in the Development Plans (Attachment B).

ix. Class III bike lane along Gateway Avenue from the western project boundary to Collier Canyon Road.

x. Class II bike lane along the northbound Shea Center Drive frontage.

e. *"Law Enforcement Assets – Perimeter"*

i. All Vehicle License Plate Reader and CCTV cameras identified as "Perimeter Assets" on Exhibit R.

ii. All necessary fiber optic and electrical connections to all required Vehicle License Plate Reader and CCVT cameras.

20. "Phase II Project Infrastructure" means all of the following components as depicted in Exhibit C:

a. *Final lift of pavement for Primary Internal Streets;*

b. *Neighborhood Park in Planning Area N3-B;*

c. *Town Square in Planning Area TS;*

d. *Pocket Plazas in Planning Areas C1-C and C2-C;*

e. *Pedestrian lighting on Primary Internal Streets; and*

f. *"Law Enforcement Assets – Interior".*

i. All CCTV cameras identified as "Interior Assets" on Exhibit R.

ii. Knox Boxes or other mutual access tools installed at each exit stairwell of each Commercial Block, granting access to both Livermore Fire Department and Livermore Police Department personnel, as feasible.

21. "Primary Internal Street(s)" means each of the Project's public streets that serve Subareas and connect to existing public streets, including Main Street, Gateway Avenue, Street A, Street B, and Street C, as identified on Exhibit B (Development Plans).

22. "Social Opportunity Endowment (SOE) Fund" means the City's Social Opportunity Endowment Fund with the purposes of providing a long-term stable funding source for the delivery of quality human services to low-income city residents.

23. "Springtown Open Space Improvements" (CIP No. 202319) means the new three-four-acre park within the Springtown Open Space between the Springtown Library and Springtown Homeowner Association facilities. The park will include the following:

a. *an active play area,*

b. *shade structures and picnic benches, and*

c. *a multipurpose field and a community garden.*

24. "Temporary Commercial Activation" is as defined below and in Exhibit E.

a. Shall mean an area of no less than 15,000 square feet in the aggregate that is located adjacent to and easily accessible from Main Street for use as temporary commercial space. The Temporary Commercial Activation shall include the installation of asphalt, concrete, and/or other landscape and hardscape elements, lighting, temporary trees, temporary power, temporary water, temporary restroom and sanitation facilities, temporary parking, temporary seating, and other elements necessary to facilitate commercial activity and use by the public, subject to Community Development Department Director approval, but shall not require the construction of vertical structures or buildings.

b. *Uses*. The type of uses and events allowable as Temporary Commercial Activation shall include but are not limited to: sale of fresh and prepared food, drink and related products ("Temporary Commercial Operator"), which may include mobile food vendors; specialty goods retail; general commercial services provided to the general public; community events such as live music, cultural arts performances, farmer's

markets, outdoor films, or similar community event uses.

25. "Temp Power" means temporary power is provided to the Planning Area authorized for temporary electrical service.

26. "Temp Water" means water service available to the Planning Area authorized for temporary use for fire suppression purposes.

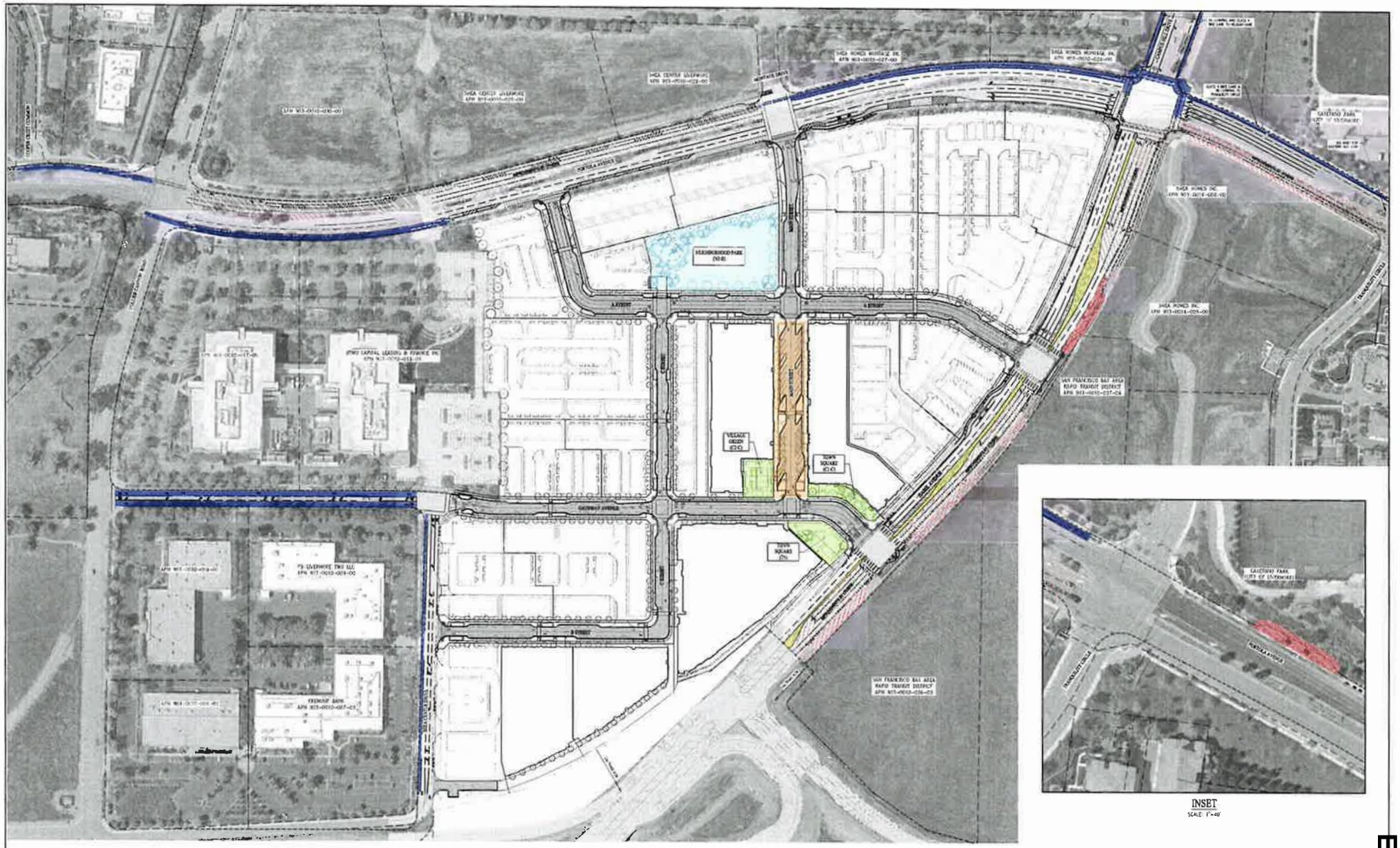
27. "TIF" means traffic impact fees.

28. "Tolling Agreement" is as defined in Section 37.

A LEGIBLE COPY OF THIS DOCUMENT CAN BE FOUND ON FILE WITH THE COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION – 1052 S. LIVERMORE AVE., LIVERMORE, CA 94550

EXHIBIT I

EXHIBIT B


NEIGHBORHOOD PARK (NOB)
VILLAGE GREEN (CLC)
TOWN SQUARE (CLC)
TOWN SQUARE (TS)
A STREET
B STREET
MAIN STREET
ISABEL AVENUE
GATEWAY AVENUE
PORTOLA AVENUE
SHEA CENTER DRIVE
CAMPUS HILL DRIVE
SHEA HOMES INC.
SHEA HOMES MORTGAGE INC.
SHEA CENTER LIVERMORE
SHEA CENTER LIVERMORE
SHEA HOMES INC.
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SHEA HOMES INC.

EXHIBIT J

Community Facilities District (CFD) Provisions

A. General Terms

1. Formation of the New Facilities CFD. If Developer submits a written request to the City Manager to establish the New Facilities CFD during the term of the Development Agreement, the City Manager shall, within sixty (60) days, notify the Developer in writing whether the City, subject to City Council approval, is willing to establish the New Facilities CFD in accordance with Section C of this Exhibit J or prefers the Developer to work with a joint powers authority to establish the CFD in accordance with Section D of this Exhibit J.

2. Annexation of the Property into the Isabel Maintenance CFD. Developer shall annex the Property into City of Livermore Community Facilities District No. 2023-1 (Isabel Neighborhood Specific Plan Services) ("**Isabel Maintenance CFD**") in accordance with Section B of this Exhibit J.

3. Tax Rate Limitation. The Total Tax Obligation (as defined below) for each residential unit in the Project as a result of the annexation of the Property to the Isabel Maintenance CFD and the formation of the New Facilities CFD, calculated at the time of the Resolution of Intention for the New Facilities CFD and based upon the expected or assigned special tax rates (and not on the back-up special tax rates) for the New Facilities CFD and the Isabel Maintenance CFD special tax rates set forth in Section B of this Exhibit J, shall be no greater than one and eighty-six hundredths percent (1.86%) of the anticipated sales price of such residential unit ("**Tax Rate Limitation**"). The anticipated sales price of a residential unit may be based on reasonable projections of value over time proposed by the Developer and acceptable to the City.

For purposes of this Section, the term "**Total Tax Obligation**" means, with respect to a residential unit at the time of calculation, the sum of: (a) the ad valorem taxes actually levied or projected to be levied if the residential unit were developed at the time of calculation; (b) the Maximum Facilities Special Tax Rates levied or projected to be levied in the New Facilities CFD if the residential unit were developed at the time of calculation; (c) the maximum Isabel Maintenance CFD special tax rates; and (d) all other special taxes (based on assigned special tax rates) or assessments secured by a lien on the residential unit levied or projected to be levied if the residential unit was developed at the time of calculation. Homeowner's association fees shall not be included in the calculation of the Total Tax Obligation.

4. Disclosure to Property Owners. Developer agrees to provide, or cause to be provided, the disclosure to purchasers of property in the Project related to the Isabel Maintenance CFD and the New Facilities CFD in the manner and at the time required by the Mello Roos Act.

5. Limitation on Other Land-Secured Financing Districts. Other than the Isabel Maintenance CFD, the New Facilities CFD and one or more citywide special tax or assessment districts, City shall not form any additional land-secured financing district over any portion of the property in the Project without Developer's written consent which may be given in its sole discretion.

B. Formation of the Isabel Maintenance CFD

1. Timing for Annexation to the Isabel Maintenance CFD. Prior to recordation of the initial final map for the Project], Developer and City shall complete annexation of the Property into the Isabel Maintenance CFD. The parties agree that the steps required to complete the annexation of the Property into the Isabel Maintenance CFD shall include (a) execution and delivery by the Developer of a Unanimous Approval prepared by the City's bond counsel and special tax consultant, (b) approval of the annexation by the City Council and (c) recordation of a notice of special tax lien in accordance with the Mello Roos Act.

2. Isabel Maintenance CFD Special Tax Rates. The maximum special tax rates applicable to the Property pursuant to the rate and method of apportionment for the Isabel Maintenance CFD ("Isabel Maintenance CFD RMA") shall be not less than the following:

ISABEL MAINTENANCE CFD MAXIMUM SPECIAL TAX RATES
FISCAL YEAR 2024/25*

Land Use Category	Maximum Special Tax Rate	Per
Residential Property	$434.74	Unit
Non-Residential Property	0.00	BSF
Mixed-Use Property	See below	
Accessory Dwelling Unit	See below	

*On July 1 of each Fiscal Year, commencing on July 1, 2025, the Maximum Special Tax rates for the Property 1 shall be increased by the February annual percentage change in the Consumer Price Index for all Urban Consumers ("CPI-U") for the San Francisco-Oakland- Hayward, CA, plus one percent (1.0%). If the percentage change in the CPI-U is negative, the Maximum Special Tax rates shall not be decreased. In the event the index described above ceases to be published, it shall be replaced by another reasonably comparable index, as determined by the City.

3. Perpetual Term of Isabel Maintenance CFD. Developer acknowledges that the Isabel Maintenance CFD RMA shall authorize the City to levy special taxes on the Property for a perpetual term.

4. Increased Isabel Maintenance CFD Special Taxes Following Delinquencies. Consistent with Section D of the Isabel Maintenance CFD RMA, under no circumstances will the special taxes levied by the City for the Isabel Maintenance CFD on any taxable parcel in the Project be increased by more than 10% as a consequence of delinquency or default in the payment of special taxes levied by the City for the Isabel Maintenance CFD by the owner of any other taxable parcel in the Isabel Maintenance CFD.

C. Formation of the New Facilities CFD by the City

1. Petition for the New Facilities CFD Formed by the City. At any time during the term of the Development Agreement, but only after annexation of the Property into the Isabel

Maintenance CFD is complete and after the City Manager has notified Developer that the City wishes to establish the New Facilities CFD, Developer may submit a petition to City in accordance with the Mello Roos Act to establish the New Facilities CFD over the Property. In its petition, Developer may include proposed specifications for the New Facilities CFD, including (subject to the Tax Rate Limitation for residential units) the maximum rates ("New Facilities CFD Special Tax Rates") of the special taxes to be levied by the City for the New Facilities CFD ("New Facilities CFD Special Taxes"), the term of the New Facilities CFD, the New Facilities CFD boundaries, and any proposed tax zones. Developer's proposed specifications will be based on Developer's development plans, market analysis, and required preferences, but in all cases will be subject to the Development Agreement and the City's goals and policies for community facilities districts adopted in accordance with the Mello Roos Act ("Goals and Policies"). Unless otherwise agreed by the City and the Developer in connection with the formation of the New Facilities CFD, the New Facilities CFD will not include any improvement areas. Following City's receipt of a petition, Developer and City will meet with City's public financing consultants to determine reasonable and appropriate terms of the proposed New Facilities CFD that are consistent with this Exhibit J and the City's goals in policies for community facilities districts in effect as of the date of this Agreement.

2. Commencement of Formation of New Facilities CFD. Within ninety (90) days following City's receipt of a petition and a reasonable deposit required by Section 53318 of the Mello Roos Act, the City Council shall adopt one or more resolutions of intention to form the New Facilities CFD consistent with the petition. Formation of the New Facilities CFD shall be subject to City Council approval after holding a public hearing in accordance with the Mello Roos Act. The resolutions of intention for the New Facilities CFD shall include a rate and method of apportionment of special tax (the "New Facilities CFD RMA") and authorization to issue one or more series of special tax bonds ("New Facilities CFD Bonds"). Upon City Council approval of the New Facilities CFD and a favorable two-thirds vote in a special tax election in accordance with the Mello Roos Act, the City shall record a notice of special tax lien required by Section 3114.5 of the California Streets and Highways Code (the "Notice of Special Tax Lien") against each taxable parcel within the New Facilities CFD.

3. City Manager Obligations. Subsequent to City Council adoption of the Resolution(s) of Intention, the City Manager shall recommend the City Council approve a Resolution of Formation and shall fully support the formation of a New Facilities CFD for the Project, as described in this Exhibit.

4. Cooperation. The New Facilities CFD RMA shall be consistent with the Developer's petition so long as such petition is consistent with this Development Agreement and the Goals and Policies. Developer and City will each use good faith reasonable efforts at all times to furnish timely to the other, or to obtain and then furnish to the other, any information necessary to develop the New Facilities CFD RMA, such as Developer's plans for the types, sizes, numbers, and timing for construction of buildings within the New Facilities CFD.

5. Maximum New Facilities CFD Special Tax Rates for Developed Property. The New Facilities CFD RMA will specify the maximum New Facilities CFD Special Tax rates (the "Maximum New Facilities CFD Special Tax Rates") for Developed Property (property for

which a building permit has been issued) within the New Facilities CFD. The Maximum New Facilities CFD Special Tax Rates for Developed Property may vary based on sizes, densities, types of buildings to be constructed, and other relevant factors. The New Facilities CFD RMA will establish Maximum New Facilities CFD Special Tax Rates assuming that any New Facilities CFD Bonds issued will have a minimum debt service coverage- ratio of one hundred ten percent (110%).

6. Term of the New Facilities CFD and Bonds. The New Facilities CFD shall have a term of not less than thirty-five (35) years following the initial fiscal year in which the New Facilities CFD Special Taxes are levied. The City and the Developer expect that the New Facilities CFD Bonds will be structured with a term not to exceed thirty-five (35) years.

7. No Requirement for Credit Enhancements. The City shall not obligate the Developer to provide credit enhancements pertaining to the New Facilities CFD. Nothing in this paragraph shall be deemed to prohibit the City from requiring capitalized interest for any New Facilities CFD Bonds not to exceed eighteen (18) months, a value-to-burden ratio for the New Facilities CFD Bonds of greater than three-to-one or the funding of one or more debt service reserve funds for the New Facilities CFD Bonds.

8. Compliance with Tax Rate Limitation. The Maximum New Facilities CFD Special Tax Rates will be set so that the Total Tax Obligation on any residential unit within the New Facilities CFD will comply with the Tax Rate Limitation.

9. Escalation of Maximum New Facilities CFD Special Tax Rates. If requested by the Developer in its petition for the New Facilities CFD, the Maximum New Facilities CFD Special Tax Rates shall increase by two percent (2%) per year.

10. Use of Special Taxes For Direct Payment of Eligible Facilities.

    a. Developer and City agree that the New Facilities CFD RMA and the New Facilities CFD formation proceedings shall provide that Eligible Facilities may be financed directly on a pay-as-you-go basis from Remainder Taxes (as defined below) both before and after the issuance of CFD Bonds, but the Developer (or its assigns) shall not be entitled to pay-as-you-go financing for longer than 10 years after the initial levy of New Facilities CFD Special Taxes in the New Facilities CFD ("pay-as-you-go period"). Accordingly, the New Facilities CFD RMA will provide that Remainder Taxes may be used to directly finance Eligible Facilities for the pay-as-you-go period. For the New Facilities CFD, annually, on the day following each Principal Payment Date (as defined below), all Remainder Taxes will be deposited in the applicable Remainder Taxes Project Account (as defined below).

        i. The term "Remainder Taxes" means, in each year, as of the day following the Principal Payment Date, all New Facilities CFD Special Taxes collected prior to such date in excess of the total of: (a) debt service on the outstanding New Facilities CFD Bonds in the current calendar year, if any; (b) priority and any other reasonable administrative costs that are payable by City or expected to be payable by City prior to the receipt of additional New Facilities CFD Special Tax proceeds; and (c) amounts levied to replenish

any reserve fund as of the Principal Payment Date, including amounts reserved for reasonable anticipated delinquencies, if any.

ii. The term "Principal Payment Date" means, either before or after New Facilities CFD Bonds are issued, September 1 of each year, regardless of whether principal payments are actually due in any particular year.

iii. The term "Remainder Taxes Project Account" means a separate account created by City for the New Facilities CFD and maintained by City to hold all Remainder Taxes of the New Facilities CFD to be used for financing Eligible Facilities.

b. *No Pledge for New Facilities CFD Debt Service.* Remainder Taxes deposited in the Remainder Taxes Project Account will not be deemed or construed to be pledged for payment of debt service on any New Facilities CFD Bonds, and neither Developer nor any other person will have the right to demand or require that City or Fiscal Agent, as applicable, use funds in the Remainder Taxes Project Account to pay debt service, although the City may reserve the right in the applicable indenture to use amounts in the Remainder Taxes Project Account to pay administrative costs, debt service on any New Facilities CFD Bonds or replenishment of debt service reserve funds for the New Facilities CFD Bonds.

11. Prepayment. The New Facilities CFD RMA will include provisions allowing a property owner within the New Facilities CFD to prepay its New Facilities CFD Special Tax obligation as long as it is not in default in the payment of New Facilities CFD Special Taxes. Prepaid New Facilities CFD Special Taxes (defined below) will be placed in a segregated account in accordance with the applicable indenture. The New Facilities CFD RMA and the indenture will specify the use of prepaid New Facilities CFD Special Taxes. Before New Facilities CFD Bonds are issued, all prepayment amounts other than those required for administrative expenses shall be used to finance Eligible Facilities ("Prepaid New Facilities CFD Special Taxes").

12. New Facilities CFD Bonds. Subject to approval of the City Council, the City, on behalf of the New Facilities CFD, intends to issue one or more series of New Facilities CFD Bonds for the purposes set forth in this Exhibit J, but only upon the written request of Developer. The City and Developer intend for the proceeds of any such New Facilities CFD Bonds to refund all outstanding bonds of the Existing CFD, pay the prepayment penalty for those bonds, allow for the release of the lien of the Existing CFD from the Property, and finance the Eligible Facilities.

a. *Underwriting.* The City shall select its financing team for any New Facilities CFD Bonds, including bond counsel, disclosure counsel, municipal advisor, underwriter and special tax consultant.

b. *Timing of Sale.* Developer has informed the City that it intends to ask the City to issue the New Facilities CFD Bonds as soon as possible after the Property in the CFD has achieved a 3:1 value-to-lien ratio. Notwithstanding the foregoing, the parties have agreed that (i) the New Facilities CFD Bonds shall be sold no sooner than the

issuance of any applicable state and federal environmental and cultural permits for the Project (unless otherwise mutually agreed to by the Parties) and (ii) after consulting with the Developer, the City shall determine the timing for the issuance of the New Facilities CFD Bonds, in consultation with its municipal advisor, the underwriter and the other financing participants. The City has informed the Developer that it intends to issue the New Facilities CFD Bonds in a manner that is consistent with sound municipal finance practices.

c. *New Facilities CFD Bonds Temporarily Excused.* The City will be authorized to temporarily suspend the issuance of any New Facilities CFD Bonds during the time in which:

   i. Developer is in default in the payment of any ad valorem tax, New Facilities CFD Special Taxes or Isabel Maintenance CFD special taxes levied on any taxable parcel it then owns in the Project;

   ii. Developer is in default under the Development Agreement;

   iii. Developer fails to cooperate reasonably with the City as necessary to implement the issuance of the New Facilities CFD Bonds in accordance with this Exhibit J;

   iv. In the judgment of the City, after consultation with Developer, and based upon the purposes set forth in this Exhibit J and advice of City staff and consultants, market conditions or conditions affecting the property in the Project (such as tax delinquencies, assessment appeals, damage or destruction of improvements, litigation or proceedings, inquiries or investigations, at law or in equity, or by or before any court, governmental agency, public board or body) make it fiscally imprudent or infeasible to incur the requested indebtedness at the time;

   v. There is an action, suit, proceeding, inquiry or investigation, at law or in equity, or by or before any court, governmental agency, public board or body, pending or threatened against the City or the New Facilities CFD: (A) wherein an unfavorable decision, ruling or finding would adversely affect the existence of the City or the New Facilities CFD or the title of any official of the City to such person's office; (B) seeking to restrain or enjoin the issuance, sale or delivery of the New Facilities CFD Bonds; (C) in any way contesting or affecting the validity or enforceability of the indenture or the New Facilities CFD Bonds; (D) contesting in any way the completeness or accuracy of the Official Statement related to the New Facilities CFD Bonds; or (E) contesting the power of the City or its authority with respect to the New Facilities CFD Bonds or the applicable indenture, or there is any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the indenture or the authorization, execution, delivery or performance by the City of the New Facilities CFD Bonds, or the related indenture; or

vi. the underwriter for any issue of New Facilities CFD Bonds exercises any right to cancel its obligation to purchase the New Facilities CFD Bonds during the occurrence and continuation of events specified in its bond purchase agreement.

13. Joint Community Facilities Agreements. The Mello Roos Act requires that the City Council enter into one or more joint community facilities agreements with other governmental entities if any of those governmental entities will own or operate any of the Eligible Facilities to be financed by the New Facilities CFD. The Developer has informed the City that joint community facilities agreements may be required between the City and, among other agencies, the Livermore Area Recreation and Parks District, Alameda County Zone 7 Water Agency, Tri-Valley Transportation JPA, and Livermore Joint Unified School District. City and Developer agree that they will take all reasonable steps to procure the authorization and execution of any required joint community facilities agreements with other governmental entities before the issuance of any New Facilities CFD Bonds that will finance the construction or acquisition of Eligible Facilities that will be owned or operated by such other governmental entities. Developer acknowledges and agrees that the ability of City to enter into joint community facilities agreements is subject to the discretion of the other governmental entities.

14. Miscellaneous New Facilities CFD Provisions

a. *Reserve Fund Earnings.* The indenture for each issue of New Facilities CFD Bonds will provide that earnings on any reserve fund that are not then needed to replenish the reserve fund to the reserve requirement will be transferred to the debt service fund held by the Fiscal Agent under the indenture.

b. *Authorization of Reimbursements.* City will take all actions necessary to satisfy Section 53314.9 of the Government Code or any similar statute subsequently enacted to use New Facilities CFD Bond proceeds and Remainder Taxes (during the pay-as-you-go period) to reimburse Developer for: (i) New Facilities CFD formation and New Facilities CFD Bond issuance deposits and (ii) advance funding of Eligible Facilities or costs.

c. *Acquisition Agreement.* Contemporaneously with the formation of the New Facilities CFD, Developer and City will execute an acquisition and funding agreement (the "Acquisition Agreement") that will apply to the acquisition and construction of the Eligible Facilities for the New Facilities CFD. The Acquisition Agreements shall contain an acknowledgment by City and Developer as to the following:

i. Developer may construct Eligible Facilities before New Facilities CFD Bond proceeds, Remainder Taxes, and Prepaid Special Taxes (herein, "Funding Sources") that will be used to acquire them are available;

ii. City will inspect Eligible Facilities and process payment requests even if Funding Sources for the amount of pending payment requests are not then sufficient to satisfy them in full;

iii. Eligible Facilities may be conveyed to and accepted by City or other

governmental entity before the applicable payment requests are paid in full;

iv. If City or other governmental entity accepts Eligible Facilities before the applicable payment requests are paid in full, the unpaid balance will be paid when sufficient Funding Sources become available, and the Acquisition Agreement will provide that the applicable payment requests for Eligible Facilities accepted by City or other governmental entity may be paid: (A) in any number of installments as Funding Sources become available; and (B) irrespective of the length of time payment is deferred; and

v. Developer's conveyance or dedication of Eligible Facilities to City or other governmental entity before the availability of Funding Sources to acquire the Eligible Facilities is not a dedication or gift, or a waiver of Developer's right to payment of Eligible Facilities under this Development Agreement or any Acquisition Agreement or joint community facilities district executed by City and Developer.

d. *Initial and Continuing Disclosure.* In connection with each issue of New Facilities CFD Bonds, Developer shall provide customary disclosure about Developer and its development and financing plans. In addition, Developer shall comply with all of its obligations under any continuing disclosure agreement it executes in connection with the offering and sale of any New Facilities CFD Bonds. Developer acknowledges that a condition to the issuance of any Bonds may be Developer's execution of a continuing disclosure agreement.

e. *Administrative Expenses.* In determining coverage requirements for any reason (e.g., bond sizing, parity bonds, etc.), City shall prioritize the payment of administrative costs for the New Facilities CFD.

f. *Eligible Facilities.* The New Facilities CFD shall be authorized to finance all or any portion of the items described in Section 53313.5 of the Mello Roos Act that are required to be built in connection with development of the Project at the time of formation of the New Facilities CFD, including, but not limited to street and transit improvements, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and landscaping related thereto, storm drain facilities, sewer facilities, electric power facilities, including transmission lines, backbone cable, conduits and transformers, school facilities and land, rights-of-way and easements necessary for any of such facilities, the Master Project Infrastructure and the Bike Lane (collectively, the "Eligible Facilities"). To the extent permitted by the Mello Roos Act, the Eligible Facilities may be financed directly or by financing Impact Fees. The City may issue any New Facilities CFD Bonds on a federally taxable basis to finance Impact Fees in its sole discretion.

15. Indemnification; Waiver. The Developer agrees to indemnify, defend, protect, and hold harmless the City, the New Facilities CFD and the City's consultants, Councilmembers, officers, employees and agents, from and against any and all claims, losses, damage, expenses and liability of every kind, nature, and description, directly or indirectly arising from the City's formation of the New Facilities CFD, the levy of the New Facilities CFD

Special Taxes, the execution of any joint community facilities agreements, the issuance of any New Facilities CFD Bonds or any other actions related to the New Facilities CFD.

D. Formation of the New Facilities CFD by a Joint Powers Authority

1. Petition for a Joint Powers Authority to Form the New Facilities CFD. At any time during the term of the Development Agreement, but only after annexation of the Property into the Isabel Maintenance CFD is complete and after the City Manager has notified Developer that the City does not wish to establish the New Facilities CFD, Developer may submit a petition to a joint powers authority acceptable to the City in accordance with the Mello Roos Act to establish the New Facilities CFD over the Property.

2. City Manager Obligations. Subsequent to the Developer's Joint Powers Authority petition, the City Manager shall recommend the City Council approve a Resolution authorizing the JPA to establish the New Facilities CFD and approving an Acquisition Agreement between the City and the Developer and shall fully support the formation of a New Facilities CFD for the Project, as described in this Exhibit.

3. City Council Approval. Concurrently with submitting the petition to the joint powers authority pursuant to the preceding subsection, the Developer shall submit a written request to the City to (a) authorize the joint powers authority to establish the New Facilities CFD, levy special taxes on taxable property in the New Facilities CFD and issue special tax bonds for the New Facilities CFD and (b) approve an Acquisition Agreement between the City and the Developer.

4. Limitations on the New Facilities CFD Formed by a Joint Powers Authority.

   a. Any New Facilities CFD formed by a joint powers authority shall be authorized to finance only Eligible Facilities and Impact Fees, and the City hereby reserves the discretion to direct the joint powers authority to finance any such Eligible Facilities or Impact Fees on a federally taxable basis.

   b. The Maximum New Facilities CFD Special Tax Rates will be set by the Developer and the joint powers authority so that the Total Tax Obligation on any residential unit within the New Facilities CFD will comply with the Tax Rate Limitation.

   c. The New Facilities CFD RMA adopted by the joint powers authority shall provide that Eligible Facilities may be financed directly on a pay-as-you-go basis from Remainder Taxes both before and after the issuance of New Facilities CFD Bonds, subject to the limitations on the pay-as-you-go-period set forth in Section C.

   d. The Developer agrees to indemnify, defend, protect, and hold harmless the City, the New Facilities CFD and the City's consultants, Councilmembers, officers, employees and agents, from and against any and all claims, losses, damage, expenses and liability of every kind, nature, and description, directly or indirectly arising from the New Facilities CFD formed by the joint powers authority.

A LEGIBLE COPY OF THIS DOCUMENT CAN BE FOUND ON FILE WITH THE COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION -1052 S. LIVERMORE AVE., LIVERMORE, CA 94550

FIGURE 2-3: SUBAREA DIAGRAM

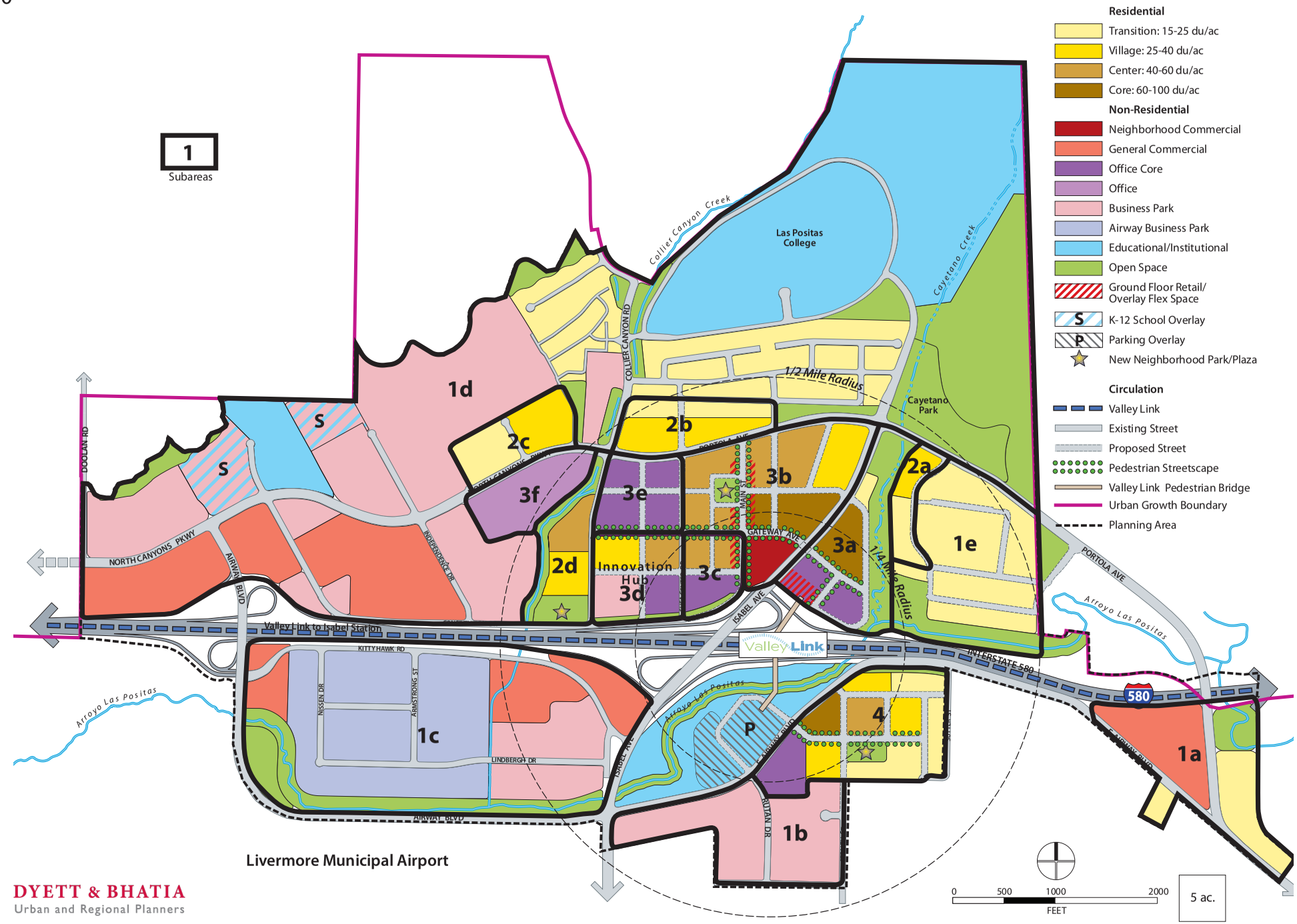

EXHIBIT K

EXHIBIT B

DYETT & BHATIA
Urban and Regional Planners

City of Livermore General Plan Map

LIVERMORE CALIFORNIA

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Legend

Residential
- Rural Residential (RR) — 1-5 Acre Site
- Urban Low Residential (ULL) — #1 = 1.0-1.5 du/acre; #2 = 1.5-2.0 du/acre
- Urban Low Medium Residential (ULM) — 2.0-3.0 du/acre
- Urban Medium Residential (UM) — 3.0-4.5 du/acre
- Urban Medium High Residential (UMH) — 4.5-6.0 du/acre
- Urban High Residential (UH), UH-6 — #1 = 6-8 du/acre; #2 = 8-14 du/acre; #3 = 14-18 du/acre; #4 = 18-22 du/acre; #5 = 22-30 du/acre; #5a = 22-30 du/acre; #5b = 30-38 du/acre; #6 = 38-55 du/acre

Commercial
- Neighborhood Commercial (NC) — .30 FAR max
- Service Commercial (SC) — .30 FAR max
- Highway Commercial (HC) — .30 FAR max
- Office Commercial (OC) — .30 FAR max
- Large Office Commercial (LOC) — .60 FAR max
- Community Serving General Commercial (CSGC) — .60 FAR max

Mixed Use
- Isabel Neighborhood Specific Plan (INSP)
- Neighborhood Mixed Low Density (NML)
- Neighborhood Mixed Medium Density (NMM)
- Neighborhood Mixed High Density (NMH)

Industrial
- BCP — Site coverage varies
- LI — 45 Max site coverage
- High Intensity Industrial (HII) — 60 Max site coverage

Community Facility
- CF-E — Elementary School (CF-E)
- CF-I — Fire Station (CF-FS)
- CF-H — Intermediate School (CF-I)
- CF-VC — High School (CF-H)
- CF-S — Community College (CF-JC)
- CF-HOSP — School General (CF-S)
- CF-R&D — Research and Development (CF-R&D)
- CF-FS — Hospital (CF-HOSP)
- CF-CC — Civic Center (CF-CC)
- CF-CE — Cemetery (CF-CE)
- CF — Government Services (CF)
- CF-AIR — Airport (CF-AIR)
- BART — Bart Station Parking (BART)

Other
- Downtown Area Specific Plan
- CF-S — Floating Potential Future Park Site
- OSP — Floating Potential Future School Site

Open Space
- Parks, Trailways, Recreation Areas (OSP)
- Limited Agriculture
- AGVT — Agriculture/Viticulture (AGVT)
- Hillside Conservation (HLCN)
- Large Parcel Agriculture
- Resource Management (RMG)
- CEDAR MOUNTAIN RD — Sand and Gravel (S&G)
- Water Management Lands (WML)

South Livermore Valley Specific Plan
- Residential Development Area (SV-OSP)
- Agricultural Preserve (SV-AP)
- Regional Open Space (SV-ROS)
- Vineyard Commercial (SV-VC)
- Transfer Development Credits Receiver Site
- I-580 Adopted Plan
- Urban Growth Boundary
- City Limits

Updated: February 28, 2022

EXHIBIT L

EXHIBIT B

City of Livermore Zoning Map

LIVERMORE

EXHIBIT B

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Residential

- Rural Residential (RR)
  - RR-1 40,0000 sq. ft. minimum lot size
  - RR-3 125,000 sq. ft. minimum lot size
  - RR-5 210,000 sq. ft. minimum lot size
- Low Density Residential (RL)
- Suburban Residential (RS)
- Suburban Multiple Family Residential (RG)
  - RG-10
  - RG-12
  - RG-14
  - RG-16
- Multiple Family Residential (MFR)

Commercial

- Downtown Specific Plan (DSP)
- Commercial Service (CS)
- Professional Office (CP)
- Commercial Office (CO)
- Highway Commercial Service (CHS)
- Neighborhood Business Commercial (CNB)

Mixed Use

- Neighborhood Mixed Use (NMU)
- Isabel Neighborhood Specific Plan (INSP)
- Transect Zone - T3 Neighborhood (T3N)
- Transect Zone - T4 Neighborhood (T4N)
- Transect Zone - T4 Neighborhood Open (T4N-O)

Industrial

- Research and Development (I-1)
- Light Industrial (I-2)
- Heavy Industrial (I-3)

Airport

- Airport Service (AIR-SE)
- Airport Operations (AIR-OP)

Other

- Education and Institutions (E)
- Open Space (OS)
  - Open Space Agricultural (OS-A)
  - Open Space Flood Plan (OS-F)
  - Open Space Rural Residential (OS-R)
- South Livermore Valley Agricultural (SLV-AG)

Planned Development

PD	Planned Development
PUD/PUDA	Planned Unit Development/Amendment Permit
PD/AG	Planned Development Agricultural
PDC	Planned Development Commercial
PDI	Planned Development Industrial
PDOS	Planned Development Open Space
PDR	Planned Development Residential
PD-ECSP-RC	Planned Development El Charro Specific Plan Regional Commercial
PD-ECSP-HRC	Planned Development El Charro Specific Plan Highway Regional Commercial
PD-ECSP-OS	Planned Development El Charro Specific Plan Open Space
PD-SLVSP	Planned Development South Livermore Valley Specific Plan

Miscellaneous / Other

- Transferable Development Credits (TDC) Receiver Site
- Urban Growth Boundary
- City Limits
- I-580 Plan Lines that Reserves Right-of-Way for Future I-580 Expansion

Updated on February 28, 2022

A LEGIBLE COPY OF THIS DOCUMENT CANBE FOUND ON FILE WITH THE COMMUNI TY DEVELOPMENT DEPARTMENT, PLANNING DIVISION - 1052 S. LIVERMORE AVE., LIVERMORE, CA 94550

FIGURE 2-1 LAND USE DIAGRAM

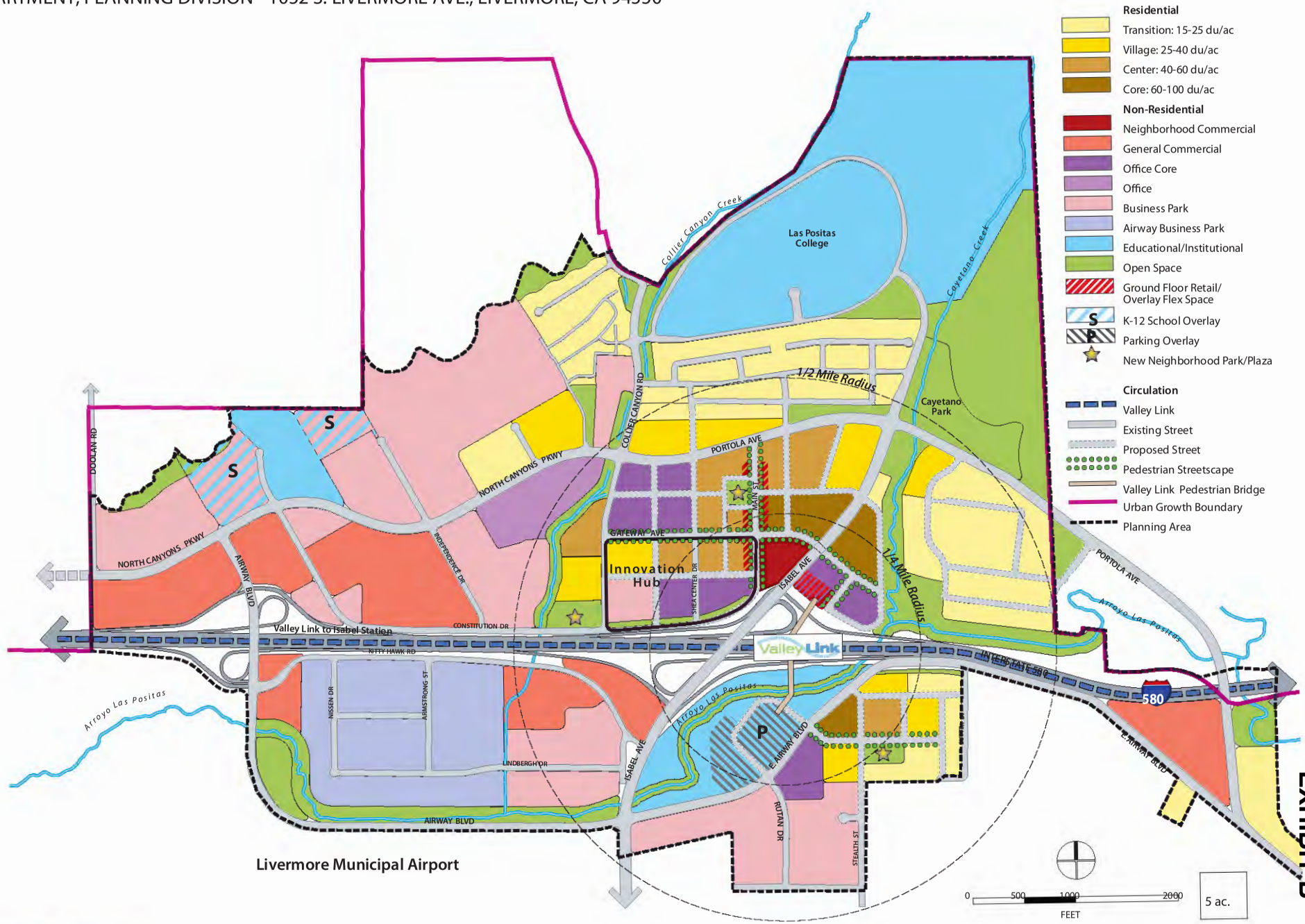


EXHIBIT B

DYETT & BHATIA
Urban and Regional Planners

Exhibit M

Reserved

Exhibit N

Reserved

EXHIBIT O

Recording Requested By:

CITY OF LIVERMORE

And When Recorded Mail to:

The City of Livermore
1052 S. Livermore Avenue
Livermore, CA 94550
Attention: City Clerk

Documentary Transfer Tax $ Exempt R&T Code 11922

By:

City of Livermore

Recording Fee $0.00 Gov't Code 27383

APN _____

Low Income For Sale Housing Agreement between City of Livermore and [Developer]

This Low Income For Sale Housing Agreement ("Agreement") is entered into on_____, _____, 2024 by and between the City of Livermore, a municipal corporation ("City"), and _____ ("Developer"), with reference to the following facts:

RECITALS

A. A serious shortage of affordable housing exists in the City. Of particular concern is the shortage of housing for low-income and moderate-income households.

B. The impact that for-sale residential units have on the need to meet affordable housing was determined by conducting a Residential Nexus Analysis and Residential Feasibility Analysis. The analyses found that the need for affordable housing is commensurate with a 15% inclusionary requirement. The 20% inclusionary requirement for the Isabel Neighborhood Specific Plan was developed to be economically equivalent to the 15% inclusionary requirement for the General Plan Area.

C. The City's General Plan Housing Element has the goal of providing housing affordable to all economic segments of the community and requires that in the General Plan area 15% of the dwelling units be affordable, in the Downtown Specific Plan area 10% of the dwelling units be affordable, and in the Isabel Neighborhood Specific Plan Area 20% of the dwelling units be affordable. Chapter 10.06.050 of the Livermore Development Code provides that this affordability requirement may also be satisfied by alternative means including payments to the City's Housing Trust Fund for use in affordable housing projects.

D. The Developer desires to build a residential development in the Isabel Specific Plan Area of the City of Livermore, and to enter into this Agreement to satisfy its affordable housing requirement.

AGREEMENT

NOW THEREFORE, in consideration of the terms, conditions and covenants set forth herein, City and Developer agree that the recitals are true and correct and further agree as follows:

1) Development
The Developer intends to develop a subdivision consisting of ___ for sale single-family, attached housing units ("Units") as described in that certain Vesting Tentative Tract Map ____ (the "Map"), located at _____, in Livermore, California (the "Development").

2) Affordable Housing Requirement
Based on the Conditions of Approval for Vesting Tentative Tract Map ____, and Chapter 10.06.050 of the Livermore Development Code, the Developer is required to provide ____ residential units ("Units") for sale at affordable prices to median-income and moderate-income households.

3) Satisfying the Affordable Housing Requirement
In satisfaction of the affordable housing requirement described in Section 2 above, the Developer hereby agrees to: (i) construct _____ Units within the Development, ___ of which will be reserved for sale at Median Income Sales Prices, and _____ of which will be reserved for sale at Moderate Income Prices as defined in Section 7 below, (the "Affordable Units"); and, (ii) for the fractional remainder of the requirement, pay to the City's Housing Trust Fund the in lieu fee, as defined in Section 4, below.

4) Payment Schedule and Calculation
The Development is to pay the in lieu fee for 0.__ Units in the Development which totals $_____, and is calculated as described in Attachment 2. The in lieu fee shall be paid in equal installments of $_____ per Unit at the time of building permit application for each of the ____ unrestricted, market rate Units in the Development (the "Market Rate Units").
The in-lieu fee amount shall be fixed for any Market Rate Units constructed in the Development within five (5) years of the date of execution of this Agreement. Thereafter, the in-lieu fee calculation shall be subject to adjustment to the current Affordable Housing In-Lieu fee per square foot as noted in Attachment 2.

5) Location and Description of Affordable Units
   a) The Affordable Units shall be located on the base lots described below and further depicted in Attachment 1, attached hereto and incorporated herein.

Lot Number	Model	Plan	No. of Bedrooms	No. of Baths	Square footage (+/-)	Affordable Sales Price Category

b) All Affordable Units shall be sold at the sales prices adopted by City Council that are applicable during the year the Affordable Units are sold (the "Median Income Price" and "Moderate Income Price"). For the initial year of this Agreement, the Median and Moderate Income Prices are as set forth in Attachment 3 attached hereto.

c) The Lots listed in Section 5.a and identified in Attachment 1 on which the Affordable Units are to be constructed may be changed with the mutual written consent of the City and Developer not to be unreasonably withheld provided that any change in the Lots does not materially detract from the value of the Affordable Units as determined by the City in accordance with the City's affordable housing ordinance (Dev. Code § 10.06.050).

d) Each Affordable Unit shall
   i. be built in conformance with the models and plans noted in Section 5 (a) above as such plans were approved in connection with Vesting Tentative Tract Map _____ and,
   ii. consist of the square feet of living space comprised of a family room, dining room, kitchen, laundry, bedrooms and bathrooms, as stated in Section 5 (a) above, and
   iii. contain the same standard amenities, fixtures and finishes, such as appliances, cabinets, counters, flooring, etc., as the market

rate units in the Development. Any proposed amenities, fixtures and finishes that differ from those in the Market Rate Units must be pre-approved by the City in writing prior to marketing the first Affordable Unit.

6) Selection of Purchasers

The purchasers ("Purchasers") of the Affordable Units shall be participants in the City's Affordable Homeownership Program (the "Program"). The Program requires, among other things that:

a) For those Affordable Units designated to be sold to median income households, each Purchaser's income shall not exceed one-hundred percent (100%) of the median income for Alameda County, adjusted for actual household size, as published annually by the California Department of Housing and Community Development ("Median Income Purchaser").

b) For those Affordable Units designated to be sold to moderate income households, each Purchaser's income shall not exceed one-hundred twenty percent (120%) of the median income for Alameda County, adjusted for actual household size, as published annually by the California Department of Housing and Community Development ("Moderate Income Purchaser").

c) Median and Moderate Income Purchasers must be first time homebuyers and meet credit and eligibility standards described in the City's Affordable Homeownership Program Guidelines.

d) To the extent required under the Program, Developer agrees to market the Affordable Units through specified City programs to implement applicant selection preferences in accordance with City's Affordable Homeownership Program Guidelines. The Developer may elect to have the City identify and select eligible Median and Moderate Income Purchasers for the Affordable Units.

e) If the Developer elects to utilize the services of the City:

   i. The City will establish a list identifying income-eligible households based on preferences established by the Livermore City Council, provide first time homebuyers access to consumer credit counseling, identify to first time homebuyers possible financing options, assist homebuyers through the escrow process, monitor resale restriction agreements and related documents, and comply with all federal and state fair housing laws and regulations.

   ii. Upon close of escrow for the sale of each Affordable Unit, the City shall be paid from escrow an administrative fee equal to one and half percent (1.5%) of the Total Purchase Price to conduct the activities described in Section 6 (d)(i) on behalf of Developer.

iii. In order to ensure timely delivery notification of eligible Purchasers, Developer shall send to the City's Housing and Human Services Division Manager, a written notice as soon as Developer, in its reasonable opinion, believes that a particular Affordable Unit is at least one hundred twenty (120) days from being ready for occupancy. At that point, the City will begin marketing and identifying eligible Median and Moderate Income Purchasers. The City shall provide to Developer the names of Median and Moderate Income Purchasers eligible under the Program.

f) If the Developer does not elect to utilize the services of the City, the Developer must meet all of requirements described in this section (6.d.i). The City will monitor the Developer to ensure compliance.

7) Sales Price Limits & Permitted Options

a) For those Affordable Units sold to Median Income Purchasers and Moderate Income Purchasers, the purchase price for each unit shall not exceed the sum of (i) the "Median Income Price" or "Moderate Income Price" plus (ii) the total cost of any Options (as that term is hereafter defined) for the particular Affordable Unit. The Median Income Price and Moderate Income Price are established annually by the City and set forth as Affordable For-Sale Prices, Rental Rates and Maximum Income Limits. The 2024 schedule is attached hereto as Attachment 3, incorporated herein as reference, and adopted by City Council Resolution 2001-204 ("Below Market Price Limits.") The Developer and the City acknowledge that the Below Market Price Limits may be adjusted from time to time and agree that in the event of such adjustment the Median Income Prices and Moderate Income Prices of the Affordable Units shall be adjusted to match the then current Below Market Price Limits at the time the Developer notices the City of an Affordable Unit(s) for sale and/or the marketing of the Affordable Unit(s) begins as mutually agreed upon.

b) The term "Options" shall mean any options, improvements, or upgrades to an Affordable Unit that Developer has made available to a Purchaser and that Purchaser has agreed to purchase at its sole cost and expense and may not be financed. Notwithstanding anything in this agreement to the contrary, the total cost of the Options that a particular Purchaser may purchase for an Affordable Unit shall not exceed five percent (5%) of the Median Income Price and Moderate Income Price for that Affordable Unit. Developer acknowledges and agrees that its sole compensation for any sale of an Affordable Unit shall be the sum of (a) the Median Income Price or Moderate Income Price and (b) the total cost of the Options. The sum total of items (a) and (b) above is hereafter referred to as the "Total Purchase Price".

c) All permitted upgrades and options for the Affordable Units must be pre-approved by the City prior to marketing the first Affordable Unit.

d) For property assessment purposes, the Total Purchase Price for each Affordable Unit shall be reported to the Alameda County Assessor's Office.

8) Affordability Restrictions
To effectuate the affordability restrictions, as a condition to the close of escrow on any Affordable Unit, the Developer shall require Purchaser to execute a promissory note in favor of the City in an amount equal to the difference between the fair market value as determined by an appraisal of the Affordable Unit and the Median Income Price or Moderate Income Price(the "Promissory Note"). In addition to the Promissory Note, the Purchaser shall execute a deed of trust and a resale restriction agreement in favor of the City that will be recorded in a second-priority position at the close of escrow. The Resale Restriction Agreement, Deed of Trust and Promissory Note shall be referred to as the "City Loan Documents" and shall be substantially in the form of Attachment 4.

9) Assignment
This Agreement shall be binding upon the successors and assigns of the parties. Where the Developer sells or otherwise transfers title to any portion of the Property, that subsequent owner and Developer are jointly and severally liable for the obligations under this Agreement as to that portion of the Property sold or transferred unless Developer is released by City, which release shall not be unreasonably withheld, so long as the subsequent owner provides City with security equivalent to any security previously provided by Developer to secure performance of its obligations hereunder. Developer acknowledges that it shall be reasonable for City to condition such release of the Developer upon Developer and its successor entering into a written assignment and assumption agreement requiring the successor to satisfy Developer's outstanding obligations under this Agreement.

10) Breach
No party shall be in material breach of this Agreement unless and until (i) the breaching party receives from the non-breaching party a written notice ("Breach Notice") stating the nature of the breach and (ii) the breaching party has failed to cure such breach within thirty (30) days of the date it receives the Breach Notice; provided, however, if the nature of the breach is of a type or nature that cannot be cured within thirty (30) days, then the breaching party shall not be in material default of this Agreement so long as it (i) commences curing of the breach within thirty (30) days of the date it receives the Breach Notice and (ii) diligently pursues curing the breach to completion.

11) Agreement Lawful and Enforceable.

The Developer acknowledges and concedes that this Agreement is lawful and enforceable and waives any and all legal challenges or other objections to this Agreement. The Developer shall not in any judicial action or proceeding, affirmatively or by way of defense, seek to invalidate or otherwise avoid the application of the terms of this Agreement.

12) Notice
Unless specified otherwise herein, any notice, tender or delivery to be given pursuant to this Agreement by either party shall be in writing and may be accomplished by delivery in person, express delivery service, or first class certified mail, return receipt requested. Any notice shall be deemed received on the date shown on the receipt as the date of delivery, refusal of delivery or the date returned as undeliverable. Notices shall be addressed as set forth below, but each party may change his or her address by written notice in accordance with this Section.

TO CITY:
City of Livermore
1052 So. Livermore Ave.
Livermore, CA 94550
Attn: City Manager

TO DEVELOPER:

With a copy to:

13) Attorneys' Fees
If any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach of this Agreement, then the party prevailing in any such action shall be entitled to recover all reasonable attorneys' fees and costs incurred.

14) Compliance
Compliance with this Agreement satisfies the affordable housing development obligations of Developer under the City's Affordable Housing Ordinance (Section 10.06.050 of the Livermore Development Code), and the Vesting Tentative Tract Map 8609 conditions of approval.

15) Modification
This Agreement shall not be modified except by written instrument executed by and between the parties.

16) Entire Agreement
This Agreement constitutes the entire understanding and agreement of the parties with respect to the sale of the Affordable Units.

17) Binding Effect
This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

18) Severability
If any term of this Agreement is held in a final disposition by a court of competent jurisdiction to be invalid, then the remaining terms shall continue in full force unless the rights and obligations of the parties have been materially altered by such holding of invalidity.

19) Governing Law
This Agreement shall be governed by the laws of the State of California.

20) Incorporation by Reference
Any exhibits referred to in this Agreement are incorporated in this Agreement by such reference.

21) Counterparts
This Agreement may be executed in counterparts, by actual or facsimile signature (with originals to be forwarded by overnight mail). Each counterpart shall be deemed an original and all, when taken together, shall constitute one agreement.

22) Termination
This Agreement and all terms and conditions contained herein and the encumbrance of this Agreement on title shall automatically terminate once all obligations under this Agreement have been satisfied by the Developer without signing or recording any instrument of release, provided City shall sign any such release to the extent requested by Developer and/or required by any title company insuring the sale or transfer of Units. Notwithstanding the foregoing this Agreement shall terminate in its entirety and be of no further force and effect with respect to, (a) any portion (or interest in) of the Property, upon dedication or conveyance to a homeowners association, public entity or public utility, and (b) any completed Unit, upon the sale of such Unit to a member of the general public. In any such event, such portion of the Property (or interest therein) shall be deemed automatically released from the encumbrance of this Declaration, without signing or recording any instrument of release, provided City shall sign any such release to the extent requested by Developer and/or required by the title company insuring such sales or transfers.

[Signatures and Attachment List on the Next Page]

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first written above.

DEVELOPER:

By: _____
Name:
Its:
For:
Date:_____

CITY OF LIVERMORE: **Dated:**

_____ _____
Marianna Marysheva
City Manager

APPROVED AS TO FORM:

_____
Deputy/Assistant/City Attorney

Attachments:
- Attachment 1 – Location of Affordable Units
- Attachment 2 – Calculation of In Lieu Fee for Fractional Unit
- Attachment 3 – Affordable Homeownership Program Sales Prices
- Attachment 4 - City Loan Documents

Attachment 1: Location of Affordable Units

Note: The original plan is available on file as part of Vesting Tentative Tract Map _____ at the City of Livermore Building Department, 1052 S. Livermore Avenue, Livermore CA 94550

Attachment 2

Calculation of In Lieu Fee Payment for Fractional Unit

(See next page)

Attachment 3

Sample Affordable For-Sale Prices, Rental Rates and Maximum Income Limits

(See next page)

Attachment 4

City Loan Documents

(See next page)

COMPLIMENTARY RECORDING
REQUESTED PURSUANT TO
GOVERNMENT CODE SECTION 27383

When Recorded Mail To:
City Clerk
City of Livermore
1052 So. Livermore Avenue
Livermore, CA 94550

RESALE RESTRICTION AGREEMENT

Owner: _____

Residence: _____
Livermore, CA 94551

This Resale Restriction Agreement (the "Agreement") is entered into as of this _____ day of _____, 2021 by and between the City of Livermore, a municipal corporation (the "City") and _____ (the "Owner").

RECITALS

A. There is currently a shortage of single family housing in the City of Livermore that is affordable to low income households, causing many low and moderate income households to be unable to purchase single family homes.

B. To assist low and moderate income households in purchasing single family homes, the City has granted developers certain regulatory concessions and in return developers have agreed to cooperate with the City in developing affordable single family homes.

C. In order to further its plan to assist in the purchase of homes by low and moderate income households, the City has developed a secondary financing program designed to assist qualified purchasers to purchase single family homes while preventing unfair windfall profits to the purchasers (the "Affordable Homeownership Program").

D. Without the City's Inclusionary housing requirements, which require the developers to build homes at an affordable price, the Owner would not have had the opportunity to purchase a single family residence.

E. The City's secondary financing represents the value that the owner has received as a result of the City's Inclusionary requirements.

F. The Owner desires to purchase an affordable single family home and to participate in the Affordable Homeownership Program.

G. The Owner has qualified for City financing with a combined household income which does not exceed One Hundred Twenty percent (120%) of median income of Alameda County, adjusted for actual household size, as published by the California Department of Housing and Community Development.

H. The City wishes to establish resale controls to protect its financial interest in the Residence and to provide for the continued availability of affordable housing.

I. In order to protect its financial interest and its program of providing housing for low income households, the City has required the Owner to execute, in addition to this Agreement, a promissory note in favor of the City (the "City Note").

J. This Agreement and the City Note shall be secured by a deed of trust in a lesser lien position (the "City Deed of Trust") subordinate to the lien of that deed of trust executed by the Owner in favor of the First Lender.

K. The purpose of this Agreement is to place resale controls on the Residence and establish eligibility requirements for subsequent purchasers.

L. The City intends to apply the production of this Residence, to the extent permitted by law, toward the satisfaction of the requirements of Health and Safety Code Section 33413(b)(2).

AGREEMENT

NOW, THEREFORE, in consideration of the benefits received by the Owner and the City, the Owner and the City agree, as follows:

1. DEFINITIONS

The following terms are specially defined for this Agreement:

A. "Affordable Purchase Price" shall mean the maximum purchase price for Moderate Income (120% AMI) housing, adjusted for number of bedrooms, as adopted annually by the City Council of the City.

B. "Affordable Rent" shall mean the lesser of the actual housing costs (including mortgage, homeowners' insurance, hazard and flood insurance, homeowners' association dues) or City affordable rental maximum plus reasonable and customary property management services fee.

C. "City Option" shall mean the City's option to purchase Residence as defined in Section 15.A.

D. "Excess Rental Proceeds" shall mean all rental proceeds collected by the Owner that exceed the Affordable Rent.

E. "Excess Sales Proceeds" shall mean the portion of the gross sales proceeds received by the Owner from a subsequent purchaser, which exceeded the Affordable Sales Price for the Residence that is due to the City. The amount of Excess Sales Proceeds due to the City shall be no greater than the equivalent amount of 3% compounded annual interest on the principal amount of the City Note for a maximum of twenty (20) years. The actual amount of excess sales proceeds due to the City shall be calculated according to the number of years outstanding on the City's Note.

F. "Fair Market Value" shall be determined by an appraisal of the Residence performed as provided in the Resale Restriction Agreement. Nothing in this subparagraph shall preclude the Owner and the City from establishing the Fair Market Value of the Residence by mutual agreement in lieu of an appraisal.

G. "First Lender" shall mean .

H. "First Lender Deed of Trust" shall mean the deed of trust from Owner to .

I. "First Lender's Loan" shall mean the loan to Owner made by and any loan to Owner in the name of or held by CalHFA.

J. "Median Income" shall mean the median annual income, adjusted for household size, for a household in Alameda County as published by the California Department of Housing and Community Development.

K. "Proposed Purchaser" shall mean the potential home buyer proposed by the Owner to purchase the Residence from the Owner.

L. "Sales Price" shall mean the maximum sales price that the Owner may receive for any Transfer of the Residence to an eligible Purchaser, as calculated in accordance with Section 14 below.

M. "Transfer" shall mean any sale, assignment or transfer, voluntary or involuntary, of any interest in the Residence, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest, (other than as may be permitted in Section 8 of the Resale Restriction Agreement) or an interest evidenced by a land contract by which possession of the Residence is transferred and Owner retains title, or deed of trust.

A Transfer shall not include a transfer by gift, devise or inheritance: (i) to an existing spouse, domestic partner, surviving joint tenant, or child; (ii) by an Owner to a spouse or domestic partner where the spouse or domestic partner becomes the co-owner of the Residence; (iii) between spouses as part of a marriage dissolution proceeding; (iv) to an existing spouse or domestic partner of Owner by devise or inheritance following the death of Owner; (v) by Owner into an inter vivos trust in which Owner is the beneficiary; or (vi) refinance of the First Mortgage meeting the requirements of Section 17 of this Agreement; provided, however, that Owner shall provide written notice of all such transfers to City; and Owner shall continue to occupy the Residence as his or her principal place of residence (except where the transfer occurs pursuant to subsection (iii) or (iv) above, in which event the transferee shall owner-occupy the Residence and affirmatively assume Owner's obligations under this Agreement and the City Note.

2. DESCRIPTION OF PROPERTY

This Agreement concerns the real property commonly known as, _____, Livermore, California, (the "Residence"), which is more fully described in Exhibit A attached hereto and

incorporated by reference.

3. TERM OF AGREEMENT

The term of this Agreement shall commence as of the date of this Agreement and shall expire on that date fifty-five (55) years from the date of this Agreement (the "Term").

4. OWNER CERTIFICATIONS; OWNER OCCUPANCY MONITORING

The Owner certifies that all financial and other information provided in order to qualify to purchase the Residence is true and correct as of the date first written above.

The Owner further covenants and agrees to occupy the Residence as Owner's primary residence for the duration of Owner's ownership and shall not rent or lease the property or portion thereof during the Term of this Agreement without prior written approval of City. The Owner shall be considered as occupying the Residence if the Owner is living in the Residence for at least ten months out of each calendar year. The City may grant a temporary waiver of this occupancy requirement for good cause in its sole discretion. Without limiting the generality of the foregoing, any absence from the Residence by Owner for a period 60 days or more days shall be deemed an abandonment of the Residence as the primary residence of Owner in violation of the conditions of this Section 4. On or before May 1 of each calendar year, the Owner shall provide an annual written certification to the City, in the form shown in Exhibit C, that the Owner is occupying the Residence as Owner's principal place of residence, and that Owner is not renting the Residence, or any portion thereof, to another party. Owner shall comply with all applicable laws relating to the use and maintenance of the Residence, including but not limited to the City of Livermore Municipal Code, City of Livermore Planning and Zoning Code, and all other local, state and federal laws.

5. NO CRIMINAL ACTIVITY

Owner agrees that no resident residing on the Property, their guests or persons under their control shall permit, engage in, or facilitate criminal activity on the Property, in any building on the Property, or in the streets bordering the Property. This includes, without limitation the foregoing: (i) the illegal manufacture, sale, distribution, use or possession with the intent to manufacture, sell, distribute or use a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802); (ii) the unlawful discharge of firearms; and (iii) all acts or threats of violence, harming, or intending to harm a person or

property.

6. NO RENTING OR LEASING OF HOME

The Owner shall not rent or lease the Residence, or any portion thereof, to another party, unless such rental or lease is first approved in writing by the City. The City shall approve the renting or leasing of the Residence only if *all* of the following conditions are met: (1) the term of the rental or lease is not greater than twelve (12) months and cannot be extended without City approval; (2) the Owner demonstrates to the City's reasonable satisfaction that the Owner will incur substantial hardship, that would at the City's discretion not otherwise be remedied through the sale of the property, if he or she is not permitted to rent or lease the Residence to a third party; (3) the tenant qualifies as an Income Eligible Household, as certified to the City, and (4) the rent for the Residence does not exceed the Affordable Rent. Any rental or lease of the Residence in violation of this Agreement is prohibited, and shall be a default under this Agreement and the City Deed of Trust. The Owner further agrees that, in the event the Owner rents or leases the Residence to a third party in violation of this Section 6, any Excess Rental Proceeds paid to the Owner by the lessee over the Affordable Rent shall be due and payable to the City immediately upon receipt thereof by the Owner. Owner agrees that the collection of rents shall be monitored and administered through an independent, licensed property manager who shall be pre-approved by the City. Such Excess Rental Proceeds shall be considered a recourse debt of the Owner to the City, as evidenced by the Note, which the City may collect by legal action against the Owner, including by foreclosure under the City Deed of Trust. The Owner hereby agrees that City shall not be responsible for any relocation, eviction, legal or moving expenses if the lessee is required to vacate the premises.

7. MAINTENANCE AND INSURANCE REQUIREMENTS

A. Maintenance. The Owner shall maintain the Residence, including landscaping, in good repair and in a neat, clean and orderly condition (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials. Owner will not permit deterioration of the Residence, and shall make all repairs and replacements necessary to keep the Residence in good condition and repair. Failure by the Owner to maintain the Residence shall constitute a default under this Agreement for which

the City may exercise the City Option to purchase the Residence pursuant to Section 15 below. In case of default, funds to clean-up or repair damage to the property shall come from the Owner.

B. Insurance. The Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Residence (adjusted every five (5) years by appraisal, if requested by City), naming the City as an additional insured. Additional insurance requirements are set forth in Section 2 of the City Deed of Trust. The Owner shall provide the City with evidence of required insurance coverage upon request of the City.

8. SALE AND TRANSFER RESTRICTIONS

A. Prohibition on Transfer. Any Transfer without satisfaction of the provisions of this Agreement is prohibited and shall constitute a default by Owner for which the City may exercise the City Option pursuant to Section 15 below.

B. Inheritance. In the event a Transfer occurs by devise or inheritance due to death of the Owner, the administrator of the Owner's estate or the person inheriting the Residence shall provide written notice to the City of the Owner's death within thirty (30) days of the date of death and the following procedures shall apply:

1. If the person inheriting the Residence (the "Inheriting Owner") is a qualified inheritor under the City's definition of eligible parties not subject to Transfer (an "Inheriting Party"), that person shall provide the City documentation of his or her qualifications as an Inheriting Party, to be verified by the City. If the Inheriting Party fails to provide required documentation demonstrating the his or her relationship to the Owner within 60 days of the date of the Owner's death, the party shall be deemed not to qualify as an Inheriting Party. The Inheriting Party shall succeed to the Owner's interest and obligations under this Agreement, the City Note, and the City Deed of Trust and shall execute an assumption agreement containing the terms of the Agreement, City Note and Deed of Trust between the Inheriting Owner and the City and recorded against the Residence.

2. If the Inheriting Owner is not a qualified Inheriting Party, he or she shall Transfer the Residence to an Eligible Purchaser at a price not exceeding the Affordable Purchase Price, pursuant to the procedures set forth in Sections 9 through 14 below and the City may exercise the City Option pursuant to Section 15 below. Prior to initiating a Transfer pursuant to this section, the Inheriting Owner shall provide the City with an Owner's

Notice of Intent to Sell within sixty (60) days of the date of death of the Owner.

3. Failure of an Inheriting Owner to follow the procedures and file the notices described in this Section 8 shall constitute a Default under this Agreement and the City may then exercise any of the remedies set forth in Section 18 below, including, without limitation, exercise of the City Option upon Default.

9. NOTICE OF INTENDED TRANSFER

In the event the Owner intends to Transfer or vacate the Residence, the Owner shall promptly notify the City in writing of such intent. The written notice shall be given in accordance with Section 26 of this Agreement at least one hundred twenty (120) days prior to the actual date of the Transfer or vacation of the Residence, or such other time period as may be mutually agreed upon by the Owner and the City. Said notice from the Owner shall be sent by certified mail, return receipt requested. Following receipt of such notice, the City may notify the Owner within thirty (30) days regarding exercise of the City Option. If the City chooses not to exercise the City Option, City will notify prospective Eligible Purchasers of the Residence that the Residence is available for purchase and shall further provide a Response Notice to Owner that will include the following information: (1) the maximum qualifying income for an Eligible Purchaser; (2) the certifications required of an Eligible Purchaser; and (3) the Sales Price the Owner may receive for the Residence, calculated by the City pursuant to Section 14 below. The Owner may receive referrals for Eligible Purchasers by the City and or its approved homeownership counseling provider for a reasonable administrative fee.

10. REPAYMENT OF CITY NOTE UPON TRANSFER BY OWNER

If a Transfer of the Residence occurs to other than an Eligible Purchaser, the Owner shall pay all amounts due under the City Note (Exhibit B). Thereafter, this Agreement shall terminate and have no further effect.

11. ASSUMPTION OF THE CITY NOTE

If the Owner transfers the Residence to an Eligible Purchaser in a transaction that meets the Eligible Transfer requirements of Section 13 of this Agreement, the City will allow the Eligible Purchaser to assume the obligations under the City Note and the City Deed of Trust, subject to the Eligible Purchaser executing a new promissory note in the amount of

the difference between the Fair Market Value and the Affordable Sales Price at the time of Transfer and a new deed of trust in favor of the City and a new resale restriction agreement. Upon the approval of an Eligible Purchaser's assumption of the Owner's obligations under the City Note and the City Deed of Trust and the execution of a new promissory note, deed of trust and resale restriction agreement by the Eligible Purchaser, the City shall release the Owner from any obligations under this Agreement, the City Note, and City Deed of Trust. The Eligible Purchaser's assumption of the Owner's obligations under the City Note and City Deed of Trust shall be credited by Owner to the Eligible Purchaser as a partial payment of the purchase price for the Residence in the amount of the City Note.

12. TRANSFER BY OWNER

The Owner may sell the Residence to a person of the Owner's choosing (the "Proposed Purchaser") on the terms set forth in this Section.

A. Transfer to Ineligible Purchasers. If the Owner Transfers the Residence in a transaction that does not meet the Eligible Transfer requirements of Section 13 below, the Owner shall first pay (i) all of the principal and interest due to the First Lender, and (ii) all principal and amounts owed on the City Note. Thereafter this Agreement shall terminate and have no further effect.

B. Transfer to Eligible Purchaser. If the Owner Transfers the Residence in a transaction that meets the Eligible Transfer requirements of Section 13 below, the City shall allow the obligations under the City Note to be assumed by the Eligible Purchaser pursuant to Section 13. A. (5) and (6) of this Agreement. The maximum amount that the Owner may receive for the Transfer after the payment of customary and reasonable closing costs for the sale of the Residence shall be lesser of: 1) the Fair Market Value of the Residence; or 2) the Affordable Purchase Price in effect at the date of sale as established by Council, subject to any adjustments due to Advances by the City or as described further in Section 14.

13. ELIGIBLE TRANSFER

A transfer that meets the requirements set forth in this Section shall qualify as an approved Transfer to an Eligible Purchaser ("Eligible Transfer").

A. Disclosures and Submittals. The Owner and the Proposed Purchaser shall provide the following information to City:

1. The name, address and telephone number in writing of the Proposed Purchaser.

2. A signed financial statement of the Proposed Purchaser in a form acceptable to the City and any other supporting documentation requested by the City. The financial information shall be used by the City to determine the income eligibility and credit worthiness of the Proposed Purchaser.

3. The proposed sales contract and all other related documents, which shall set forth the terms of the sale of the Residence, including the following terms:

   a. The sales price, setting out the amount of the first loan and the amount of the City Note which is to be assumed; and

   b. The price to be paid by the Proposed Purchaser for the Owner's personal property, if any, and for the services of the owner, if any.

4. A written certification, from the Owner and the Proposed Purchaser, in a form acceptable to the City that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the City. The certification shall also provide that the Proposed Purchaser or any other party has not paid and will not pay to the Owner, and the Owner has not received and will not receive from Proposed Purchaser or any other party, money or other consideration in addition to what is set forth in the sales contract and documents submitted to the City, including personal property. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this Agreement or false or misleading statements are made in any documents or certification submitted to the City, the City shall have the right to file an action at law or in equity to make the parties terminate and/or rescind the sales contract and/or declare the sale void, notwithstanding the fact that the sale may have closed and become final as between the Owner and the Proposed Purchaser. In any event, any costs, liabilities or obligations incurred by Owner and/or the Proposed Purchaser for the return of any moneys paid or received in violation hereunder or for any costs and legal expenses, shall be borne by Owner and/or the Proposed Purchaser and they shall hold the City harmless and reimburse their expenses, legal fees and costs for any action they reasonably take in good faith in enforcing the terms of this Agreement. An executed resale restriction agreement by the Proposed Purchaser with substantially the same provisions as this Agreement and subject to City approval. The recordation of the resale restriction agreement shall be a condition of the City's approval of the proposed sale. The City may require the Proposed Purchaser to pay a reasonable fee to the City and reimburse it for out of pocket costs to cover the costs of administering its rights and obligations under this Agreement.

5. An executed deed of trust and a promissory note from the Proposed Purchaser

in favor of the City except that the principal amount of the new promissory note shall equal the difference between the Fair Market Value and the Affordable Purchase Price at the time of Transfer. The new promissory note shall be subject to the Affordable Homeownership Program terms at the time of Transfer.

6. Upon the close of the proposed sale, certified copies of the recorded deed of trust, a copy of the recorded resale restriction agreement, a copy of the final sales contract, settlement statement, escrow instructions, and any other document which the City may reasonably request.

B. Eligibility Of Purchaser. A purchaser who meets the following requirements shall be an Eligible Purchaser ("Eligible Purchaser"):

1. Each purchaser shall certify that he or she will occupy the Residence as his or her principal residence. The Residence shall be considered the principal residence of the purchaser if the purchaser lives in the Residence for at least ten (10) months out of each calendar year.

2. The combined income for all household members of the purchaser does not exceed One Hundred Twenty percent (120%) of median income of Alameda County, adjusted for actual household size, as published by the California Department of Housing and Community Development.

14. DETERMINATION OF SALES PRICE

A. To Eligible Purchaser. The maximum sales price (the "Sales Price") that the Owner may charge for a Transfer of the Residence to an Eligible Purchaser shall be lesser of: (i) the Fair Market Value of the Residence; or (ii) the Affordable Purchase Price, plus the amount of the Excess Sales Proceeds. In the event that the sum of the Affordable Purchase Price plus the amount of the Excess Sales Proceeds under the City Note exceeds the Fair Market Value of the Residence, the amount of the City Note shall be reduced until the sum of the Affordable Purchase Price plus the amount of the City Note equals the Fair Market Value. No adjustments to the Affordable Purchase Price shall be made for any improvements or upgrades to the unit.

B. Adjustments to Owner's Net Proceeds Sales Price. The owner's net proceeds may be decrease by the amount necessary to repair damage to the Residence, if any, and to place the Residence into saleable condition as reasonably determined by the City

including, without limitation, amounts attributed to cleaning; painting; replacing worn carpeting and window coverings; making necessary structural, mechanical, electrical and plumbing repairs; addressing damage noted in the pest report, and repairing or replacing built-in appliances and fixtures. Owner hereby covenants to, at Owner's expense, maintain the Residence in the same condition as in existence on the date of City's Notice of Exercise, reasonable wear and tear excepted to cover any advances made by the City.

C. To Ineligible Purchaser. The sales price that the owner may charge for a Transfer of the Residence to an Ineligible Purchaser shall be reached by mutual consent between the owner and buyer of the residence. If the residence is sold to an ineligible purchaser the owner will be subject to conditions set forth in Section 12. A. of this Agreement.

D. Payment to City of Excess Sales Proceeds. If the Owner Transfers the Residence at an unrestricted price pursuant to this Section 14, or if the Owner makes a Transfer in violation of this Agreement, the Owner shall pay the principal balance of the City Note plus any Excess Sales Proceeds to the City.

15. OPTION TO PURCHASE

A. City Option to Purchase. Owner hereby grants to the City an option to purchase all of Owner's right, title and interest in and to the Residence ("City Option") upon the occurrence of an Option Event as defined in Section 15. C. below, subject to the terms and conditions contained herein.

B. Assignment of the City Option. The City may assign the City Option to another government entity, a nonprofit affordable housing or service provider, or a person or family that qualifies as an Eligible Purchaser. The City's assignment of the City Option shall not extend any time limits contained herein with respect to the exercise period of the City Option or the period within which the Residence must be purchased.

C. Events Giving Rise to Right to Exercise Option. The City shall have the right to exercise the City Option upon the occurrence of any of the following events (each an "Option Event"):

1. Receipt of a Notice of Intent to Transfer (as defined in Section 9);
2. Any actual, attempted or pending sale, conveyance, transfer, lease or other attempted disposition of the Residence or of any estate or interest therein,

except as defined as Events not constituting a Transfer in Section 1.M.;

3. Any actual, attempted or pending encumbrance of the Residence, including without limitation by way of mortgage or deed of trust, or by judgment, mechanics, tax or other lien, except as provided in Section 17 below;
4. Recordation of a notice of default and/or notice of sale pursuant to California Civil code section 2924 (or successor provisions) under any deed of trust or mortgage with a power of sale encumbering the Residence;
5. Commencement of a judicial foreclosure proceeding regarding the Residence;
6. Commencement of a proceeding or action in bankruptcy, whether voluntary or involuntary, pursuant to Title 11 of the United States Code or other bankruptcy statute, or any other insolvency, reorganization, arrangement, assignment for the benefit of creditors, receivership or trusteeship, concerning the Owner; or
7. Any violation by Owner of any provision of this Agreement including, without limitation, the conditions set forth in Sections 4, 5, 6, and 7 above.

16. FAIR MARKET VALUE

If it is necessary to determine the Fair Market Value of the Residence, the Fair Market Value shall be determined by a real estate appraiser approved by the Owner and the City. The cost of the Appraisal shall be borne equally by the Owner and the City. Nothing in this section shall preclude the Owner and the City from establishing the fair market value of the Residence by mutual agreement in lieu of an appraisal pursuant to this section.

17. REFINANCING OF THE RESIDENCE

If authorized by a First Lender, Owner may refinance the First Lender's loan provided the loan amount of such refinancing does not exceed the then outstanding balance of the First Lender's loan plus 2% non-recurring closing costs. However, Owner may not refinance a First Lender's loan with a loan that contains any provisions for negative amortization or balloon payments. Upon Owner's request, the City shall subordinate the City Deed of Trust to a deed of trust or mortgage made by or held by an institutional lender or investor which is given in connection with any refinancing of the First Lender's Loan which meets the criteria set out in this Section 17 of this Agreement.

18. DEFAULTS AND REMEDIES / DEFAULT BY OWNER

Upon a violation of any of the provisions of this Agreement by the Owner, the City shall give written notice to the owner specifying the nature of the violation. If the violation is not corrected to the satisfaction of the City within thirty (30) days after the date the notice is mailed, or within such further time as the City determines is necessary to correct the violation, the City may declare a default under this Agreement. Upon the declaration of a default or if the Owner makes any misrepresentation in connection with receiving any benefits under this Agreement, the City may: (a) declare all amounts due under the City Note immediately due and payable without further demand and may invoke the Power of Sale under the Deed of Trust; and/or (b) exercise the City Option; and/or (c) apply to a court of competent jurisdiction for specific performance of this Agreement, for an injunction prohibiting a proposed sale or transfer in violation of this Agreement, for a declaration that a transfer in violation of this Agreement is void, or for any such other relief at law or in equity as may be appropriate.

19. NOTICE OF DEFAULT AND FORECLOSURE

A request for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Residence shall be recorded by the City in the Office of the Recorder of Alameda County for the benefit of the City. The City may declare a default under this Agreement upon receipt of any notice given to the City pursuant to Civil Code Section 2924b, and may exercise its rights as provided in Section 15 of this Agreement.

In the event of default and foreclosure, the City shall have the same right as the Owner to cure defaults and redeem the Residence prior to the foreclosure sale. Nothing herein shall be construed as creating any obligation of the City to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

If the City failed to file the request for notice of default, the City Option shall commence from the date the notice of default is given by the City to the Owner.

20. BINDING EFFECT

This Agreement shall bind, and the benefit hereof shall inure to, the Owner, his or her heirs, legal representatives, executors, successors in interest and assigns, and to the City and its successors, until the earlier of (a) the date the City Note is repaid, or (b) the date of

a Transfer of the Residence to an Eligible Purchaser in accordance with Section 12. B. above, or (c) at least 55 years from the date of this Agreement.

21. SUPERIORITY OF AGREEMENT

The Owner covenants that he or she has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereof, and that, in any event, this Agreement is controlling as to the rights and obligations between and among the owner, the City and their respective successors.

22. RIGHTS OF BENEFICIARIES UNDER DEEDS OF TRUSTS

Notwithstanding any other provision hereof, this Agreement shall not diminish or affect the rights of a First Lender under the First Lender's Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Residence and the provisions of this Agreement shall be subordinate to the lien of a First Lender Deed of Trust and shall not impair the rights of a First Lender, or such lender's assignee or successor-in-interest (including but not limited to the United States Department of Housing and Urban Development (HUD), Federal National Mortgage Association (FNMA), or the Veterans Administration, if applicable), to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under a First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Agreement shall be forever terminated and shall have no further effect as to the Residence or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquired title to the Residence pursuant to a deed or assignment in lieu of foreclosure this Agreement shall automatically terminate upon such acquisition of title, provided that (i) the City has been given written notice of default under such First Lender Deed of Trust, which requirement shall be satisfied by recordation of a notice of default under California Civil Code Section 2924, and (ii) the City shall not have cured the default under the First Lender Deed of Trust within ninety (90) days of such notice.

23. AMENDMENTS AND MODIFICATIONS

This Agreement, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of any party hereto, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or

termination is sought.

24. SEVERABILITY

If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such term, covenant or condition and the validity or enforceability of the remaining terms, covenants or conditions shall not in any way be affected.

25. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of California.

26. NOTICES

Notices under this Agreement must be delivered to the addresses below by deposit in the United States mail or by overnight delivery service, with postage prepaid and delivery confirmation and shall be deemed to be effective as of the date received or the date delivery was refused as indicated on the return receipt as follows:

To the Owner:

To the City: City of Livermore
1052 S. Livermore Ave.
Livermore, CA 94550
Attn: City Manager

27. INTERPRETATION OF AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid speculation on the Residence and to insure to the extent possible that its sales price and mortgage payment remain affordable to persons and families of low income.

28. EXHIBITS

Any exhibits referred to in this Agreement are incorporated in this Agreement by such reference.

29. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first written above.

CITY OF LIVERMORE:

By:_____
Marianna Marysheva, City Manager

OWNER:

_____

Approved as to form:

_____
Name:
Title: (Deputy/Assistant) City Attorney for
City of Livermore

CO-OWNER:

_____

Exhibits

A Residence Description
B City Note
C Sample Owner Occupancy Certification Form

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certification is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
}
County of Alameda }

On _____,_____ who before me, _____Notary Public, personally appeared proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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.

_____ (Seal)
Signature of Notary Public

EXHIBIT 'A'

Legal Description

EXHIBIT 'B'

Promissory Note

NOTICE TO BORROWER: **Loan No.**

THIS DOCUMENT CONTAINS PROVISIONS
RESTRICTING RESALES AND ASSUMPTIONS

PROMISSORY NOTE

Secured by a Deed of Trust

$ Dated:

Livermore, California

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay to the order of the City of Livermore, a municipal corporation (the "City") at 1052 South Livermore Ave., Livermore, California, or such other place as the City may designate in writing, the principal sum of $ plus any amounts due the City as Excess Sales Proceeds.

1. Definitions. Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Resale Restriction Agreement, executed by the parties and of even date herewith.

2. Purpose of City Note. Borrower is purchasing the Residence pursuant to the City's Affordable Homeownership Program, which makes homes available at a price affordable to low or moderate income households. Pursuant to the City's Affordable Housing Ordinance, Livermore Development Code Section 10.06.050, the purchase price of the Residence is substantially below the market value to ensure the Residence will be affordable for purchase by low or moderate income households. Because the purchase price has been set below the market value, the Borrower is required and has agreed to execute a Resale Restriction Agreement that restricts the price of the Residence upon resale and requires the Borrower to pay any Excess Sales Proceeds to City upon resale . In addition, the Resale Restriction Agreement prohibits the renting or leasing of the Residence except with prior written approval of the City.

3. Borrower's Obligation. This Note evidences the Borrower's obligation to pay the City the principal amount of Dollars ($) plus Excess Sales Proceeds for the repayment of the financial assistance provided to the Borrower by the City in connection with the purchase of the Residence as defined in Paragraph 4, below.

4. Security. This Note is secured by a Deed of Trust (the "Deed of Trust") dated the same date as this Note recorded against the property located at , Livermore, California (the "Residence").

5. Repayment. The total amount of the principal and any Excess Sales Proceeds owed under this Note shall immediately become due and payable (i) in the event of an uncured default by Borrower under this Note, the Deed of Trust, or the Resale Restriction Agreement between the City and Borrower, or (ii) on the date a Transfer is made to other than an Eligible Purchaser whether voluntarily, involuntarily, or by operation of law and whether by deed, contract of sale, gift, devise, bequest or otherwise

There shall be no payments due on amounts owed under this Note so long as the Borrower owns the Residence and is not in violation of any provisions of this Note, the Resale Restriction Agreement, or the Deed of Trust. This Note is due and payable upon sale or transfer of title.

At the request of the Borrower, the City shall relieve Borrower of all obligations under this Note, provided that the Residence is sold to an Eligible Purchaser pursuant to the Resale Restriction Agreement, and the Eligible Purchaser executes a new resale restriction agreement, deed of trust, and a new promissory note pursuant to provisions of the Resale Restriction Agreement.

The City shall forgive the principal due under this Note at the time of a Transfer or repayment of this Note to the extent necessary to ensure that the Borrower's obligations to repay the principal due on this Note and on all promissory notes secured by deeds of trust superior to the Deed of Trust do not exceed the Fair Market Value of the Residence.

6. Assumption of Note is Restricted. Borrower acknowledges that this Note is given in connection with the purchase of the Residence as part of a program of the City to assist in the purchase of homes by low or moderate-income persons. Consequently, this Note is not automatically assumable, but is subject to Section 711.5 of the California Civil Code, which allows the City to accelerate all amounts due under this Note if any subsequent sale or transfer of the Residence of any kind does not comply with the provisions of the Resale Restriction Agreement executed between the Borrower and the City and dated the same date as this Note.

7. Prepayments. Borrower may prepay all or any amount of the principal balance due under this Note.

8. Default and Acceleration. Upon the occurrence of an uncured default under this Note, the Resale Restriction Agreement or the Deed of Trust, the City shall have the right to declare the full amount of the principal along with any Excess Sales Proceeds under this Note immediately due and payable. Any failure by the City to pursue its legal and equitable remedies upon default shall not constitute a waiver of the City's right to declare a default and exercise all of its rights under this Note, the Deed of Trust, and the Resale Restriction Agreement. Nor shall acceptance by the City of any payment provided for herein constitute a waiver of the City's right to require prompt payment of any remaining principal and interest owed.

9. No Offset. Borrower hereby waives any rights of offset it now has or may hereafter have against the City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

10. Waiver; Attorneys' Fees. Borrower and any endorsers or guarantors of this Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, dishonor and non-payment of this Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred, including reasonable attorneys fees. If an action is instituted on this Note, the undersigned promises to pay, in addition to the costs and disbursements allowed by law, such sum as a court may adjudge reasonable as attorneys' fees in such action.

11. Severability. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

12. No Waiver by the City. No waiver of any breach, default or failure of condition under the terms of this Note shall be implied from any failure of the City to take, or any delay by the City in taking, action with respect to such breach, default or failure or from any previous waiver of any similar or unrelated breach, default or failure; and a waiver of any term of the Note must be made in writing and shall be limited to the express written terms of such waiver.

13. Joint and Several Obligations. This Note is the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

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

15. Non-recourse; Assignment by City. This Note constitutes a portion of the unpaid balance of the purchase price of the Residence. Borrower shall have no personal liability for any deficiency on this Note and the only remedy available to the City or any holder in due course shall be foreclosure pursuant to law as provided in the Deed of Trust. The City may assign its right to receive the proceeds under this Note to any person and upon notice to Borrower by the City all payments shall be made to the assignee.

DATE: BORROWER:

_____

DATE: CO-BORROWER:

_____

•

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO
City of Livermore
1052 S. Livermore Avenue
Livermore, Ca. 94550-4899

Complimentary Recording Request Pursuant To Government Code Section 27383

Loan No.:

Space Above This Line for Recorder's Use Only

A.P.N.:

File No.:

DEED OF TRUST AND ASSIGNMENT OF RENTS
(Short Form)

THIS DEED OF TRUST, made this between

TRUSTOR: whose address is

TRUSTEE:
and BENEFICIARY: City of Livermore, a Municipal Corporation

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in the City of Livermore, Alameda County, State of California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The lien of this Deed of Trust is inferior and subordinate to the lien of that certain Trust Deed executed by Trustors named above for the benefit of dated securing an original amount of $, which is recorded concurrently herewith.

If the Trustor/Grantor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable.

TOGETHER WITH the rents, issues, and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph 10 of the provisions, incorporated by reference, to collect and apply such rents, issues and profits.
FOR THE PURPOSE OF SECURING: 1. Performance of each agreement of Trustor, incorporated by reference or contained herein. 2. Payment of the indebtedness evidenced by one Promissory Note of even date herewith, and any extension or renewal thereof, in the principal sum of $, executed by Trustor in favor of Beneficiary or order. 3. Payment of such further sums as the then record Owner of said property hereafter may borrow from Beneficiary, when evidenced by another Note (or Notes) reciting it is so secured
TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES: By the execution and delivery of this Deed of Trust and the Note secured hereby, that provisions (1) to (14), inclusive, of the fictitious deed of trust recorded in Santa Barbara County and Sonoma County on October 18, 1961, and in all other counties on October 23, 1961, in the book and page of the Official Records in the office of the county recorder of the county where said property is located, noted below and opposite the name of such county, viz:

County	Book	Page	County	Book	Page	County	Book	Page	County	Book	Page	County	Book	Page
Alameda	435	684	Imperial	1091	501	Merced	1547	538	San Benito	271	383	Siskiyou	468	181
Alpine	1	250	Inyo	147	598	Modoc	184	851	San Bernadino	5567	61	Solano	1105	182
Amador	104	348	Kern	3427	60	Mono	52	429	San Francisco	A332	905	Sonoma	1851	689
Butte	1145	1	Kings	792	833	Monterey	2194	538	San Joaquin	2470	311	Stanislaus	1715	456
Calaveras	145	152	Lake	362	39	Napa	639	86	San Luis Obispo	1151	12	Sutter	572	297
Colusa	296	617	Lassen	171	471	Nevada	305	320	San Mateo	4078	420	Tehama	401	289
Contra Costa	3978	47	Los Angeles	T2055	899	Orange	5889	611	Santa Barbara	1878	860	Trinity	93	366
Del Norte	78	414	Madera	810	170	Placer	895	301	Santa Clara	5336	01	Tulare	2294	275
El Dorado	568	456	Marin	1508	339	Plumas	151	5	Santa Cruz	1431	494	Tuolumne	135	47
Fresno	4626	572	Mariposa	77	292	Riverside	3005	523	Shasta	684	528	Venutra	2062	386
Glenn	422	184	Mendocino	579	530	Sacramento	4331	62	Sierra	29	335	Yolo	653	245
Humboldt	657	527				San Diego Series 2 Book 1961, Page 183887						Yuba	334	486

which provisions, identical in all counties, are printed below) hereby are adopted and incorporated herein and made a part hereof as fully as though set forth herein at length; that he will observe and perform said provisions; and that the references to property, obligations, and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust.

In accordance with Section 2924b, Civil Code, request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale be mailed to Trustor at Trustor's address hereinbefore set forth, or if none shown, to Trustor at property address.

FURTHERMORE, in the event of foreclosure or deed in lieu of foreclosure, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate-income households or otherwise restricting the Trustor's ability to sell the Property shall have no further force or effect. Any person (including successors or assigns thereto) receiving title to the Property through a foreclosure or deed in lieu of foreclosure shall receive title to the Property free and clear from such restrictions.

NOTICE: A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE WILL BE SENT TO THE ADDRESS CONTAINED IN THIS RECORDED REQUEST. IF YOUR ADDRESS CHANGES, A NEW REQUEST MUST BE RECORDED.

Signature of Trustor(s)

_____

Dated: _____

_____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California }
}ss.
COUNTY OF Alameda }

On _____, before me, , Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons 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.

_____ (Seal)
Signature of Notary Public

DO NOT RECORD

The following is a copy of provisions (1) to (14), inclusive, of the fictitious Deed of Trust, recorded in each county In California, as stated in the foregoing Deed of Trust and incorporated by reference In said Deed of Trust as being a part thereof as if set forth at length therein.

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

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary fire Insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

(4) To pay: at least ten days before delinquency, all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay Immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the rate called for in the note secured hereby, or at the amount allowed by law at date of expenditure, whichever is greater, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

(6) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in this same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(7) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(9) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee is such reconveyance may be described as "the person or persons legally entitled thereto.· Five years after issuance of such full reconveyance, Trustee may destroy said Note and this Deed of Trust (unless directed in such request to retain them.)

(10) That as additional security, Trustor here6y gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, Issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act pursuant to such notice.

(11) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust, said Note(s) and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and In such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the persons or persons legally entitled thereto .. -

(12) Beneficiary, or any successor in ownership of any Indebtedness secured hereby may, from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its titJe, estate, rights, powers and duties, must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust Is recorded and the name and address of the new Trustee.

(13) That this Deed of Trust applies to, insures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, Including pledgees, of the Note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so required, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(14) That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be party unless brought by Trustee.

----------DO NOT RECORD----------

REQUEST FOR FULL RECONVEYANCE

To be used only when note has been paid.

To: , a Corporation, **Trustee**

Dated: _____

The undersigned is the legal owner and holder of all indebtedness secured by the within Deed of Trust. All sums secured by said Deed of Trust have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel all evidences of indebtedness, secured by said Deed of Trust, delivered to you herewith together with said Deed of Trust, to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, the estate now held by you under the same.

Mail Reconveyance to:

_____

_____

_____

_____

_____

By _____

By _____

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures.
Both must be delivered to the Trustee for cancellation before reconveyance will be made.

Short Form
DEED OF TRUST
WITH POWER OF SALE
INDIVIDUAL

EXHIBIT 'C'

LIVERMORE

Annual Compliance Report

Certificate of Owner Occupancy

Due by May 1st Annually

Address: _____ Livermore CA

I/We hereby certify that I/we have continuously occupied the unit located at the above named address as our Primary Residence as defined according to the City's loan documents. I/We understand that failure to occupy the unit as our Primary Residence shall be cause for default under the City's loan agreements.

Signature(s): Date:

_____ _____

_____

☐ Copy of the most current (April) PG&E statement/bill included (first page only).

Changes to phone or email contact? Please update here:

_____

For concerns about providing this information, changes in property owner status or other questions, please contact the City's Housing and Human Services Division at (925)960-4580.

Mail or deliver completed form and documents to:

City of Livermore
Housing and Human Services Division
1052 S. Livermore Avenue
Livermore, CA 94550

Exhibit P

Public Art Contribution

Introduction

This Exhibit P describes the Developer obligations for the public art contribution for the Project.

Public Art

The City established an Art in Public Places Program (Art Program) (LMC Chapter 12.51) to promote cultural and artistic assets on private development, to improve the City's aesthetic and visual quality, to revitalize the City, and to promote the public's understanding and enjoyment of cultural diversity. To these ends, the Art Program requires the following:

1. Private Development projects are required to contribute to the City's Art Program in an amount no less than 1/3 of one percent of the total Project construction costs.

2. The Art Program allows contributions to consist of public artwork or in-lieu fees.

3. Public artwork means works of art created by artists as unique and original works, in any medium including but not limited to painting, drawing, printmaking, photography, calligraphy, ceramic, sculpture, glass, liquid, water features, murals, light earthworks, conceptual and temporal pieces, functional elements if designed by a professional artist, and art that is integrated into a project's architecture. It may include space for exhibitions, displays or demonstrations and public performances. The artwork may be created through collaboration between the Commission for the Arts, the artist and the community.

The Project's art contributions shall implement the City's Art Program, as follows:

1. Art Master Plan. To ensure a cohesive art design throughout the Project site, the Developer shall prepare a comprehensive Art Master Plan that covers the entire project site and includes a variety of art installations and programs. The requirements of the Master Plan are outlined below:

    a. *Timing and Review.* Within twelve (12) months of Development Agreement approval, Developer shall submit an Art Master Plan to the Director for review. The Developer shall obtain Art Master Plan approval from the Director and the Commission for the Arts within twenty-four (24) months of Development Agreement approval, subject to the Force Majeure provisions of the Agreement.

    b. *Content.* The Arts Master Plan shall include required art as identified in paragraph b(i), below, and a series of art options listed in paragraphs b(ii) – b(iv), below, developer or developer's representative may choose from any of the items listed in paragraphs b(ii) – b(iv), below, to meet the City's art requirements, subject to the

final approval of the Director.

i. Iconic Art. The Art Master Plan shall include the "Iconic Sculpture Installations" in the locations shown on Sheet L1-4 of the Development Plans (Exhibit B). The Iconic Sculptures shall be the largest, most prominent art pieces in the Project and shall be visible from the public right-of-way.

1. The Art Master Plan shall include the sizes, conceptual designs, locations (including Project Planning Areas), and value of all proposed art pieces.

ii. Small Art Installations: The remaining Murals, Small Sculptures, and Decorative Arts shown on Sheet L1-4 of the Development Plans (Exhibit B) and any other art installations may be included in the Art Master Plan, subject to the requirements of this section. The Art Master Plan shall include conceptual locations and reference imagery of proposed small art installations.

iii. Art Space. At the discretion of Director, consistent with Exhibit E (Commercial Exhibit) of this Agreement, the Art Master Plan may include dedication of commercial tenant square footage or Temporary Commercial Activation areas as an art gallery, public art space, or other space for exhibitions, displays or demonstrations and public performances.

1. Consistent with Exhibit E (Commercial Exhibit) of this Agreement, the Master Art Plan shall include the value of the dedicated commercial tenant square footage.

iv. Arts and Cultural Programming. The Art Master Plan may include Arts and Cultural Programming to be held within the Project site.

1. The Art Master Plan shall include a description of the proposed programming and quantity of events.

2. The Art Master Plan shall include the value of the Arts and Cultural Programming.

c. *Commission for the Arts.* The Developer recognizes that the Commission for the Arts is a public body and may require modifications to the proposed Art Master Plan. The Developer further recognizes that Commission for the Arts review may take up to six (6) months. At the discretion of the Director, the timeframes of section 1.a., above, may be extended upon the reasonable request of the Developer for the purposes of accomplishing the purposes of this Exhibit.

2. Contributions. Consistent with the Art Program and prior to the first Building Permit issuance for each Planning Area, the Developer or Successor(s) shall pay, and the City shall accept, an Art fee in an amount equivalent to 1/3 of one percent of the such Planning Area's total construction costs, subject to the following:

a. The Administrative Services Director shall place such funds in an art account dedicated to the Project (the "Project Art Account").

b. The funds shall only be used within the Project site.

c. The funds shall be used to implement the approved Art Master Plan.

3. Implementation. Developer shall work with a master Art Consultant as follows:

   a. The Art Consultant shall construct or oversee the construction of all art pieces and coordinate any Arts and Cultural Programming identified in the approved Art Master Plan.

   b. Each Art Piece and the Arts and Cultural Programming shall be consistent with that shown in the Art Master Plan, including with respect to size, quantity, location, design, operating characteristics, etc.

   c. The Art Consultant shall utilize, and the Administrative Services Director shall disperse, funds from the Project Art Account to pay for installation of the required artwork and Arts and Cultural Programming.

   d. Prior to installation of public art or execution of an arts program, the Art Consultant shall propose projects to the Commission for the Arts, which will make a finding of consistency with the Art Master Plan or identify necessary changes to achieve consistency with the Plan.

   e. The Art Consultant shall construct the art pieces and host the Arts and Cultural Programming subject to the timelines described in this Exhibit.

4. Art Easement. Prior to small lot Final Map approval for each Planning Area identified in Exhibit B, Developer or any Successor(s) shall provide an Art Piece Easement on the small lot Final Map in the "Iconic Sculpture Installation" locations and the locations of any small art piece installations specified in the Art Master Plan, as approved by the Director.

5. Art Installation. Prior to the first Certificate of Occupancy of the last building within each Planning Area, the Art Consultant shall install, or cause to install, the art pieces, as described in the Art Master Plan, unless otherwise approved through an art installation plan by the Director.

   a. *Other Permits.* The Developer and Art Consultant shall obtain all required permits (e.g. Building Permits, Encroachment Permits, etc.) prior to installation.

6. Unused Funds. If any funds remain in the Project Art Account after implementation of the Art Master Plan is complete, the remaining account balance shall be used for Arts and Cultural Programming, additional art pieces within the Project site, or paid to the City as an in-lieu arts fee for use citywide, as determined by the Director.

7. Failure to Perform. The Developer and Art Consultant shall adhere to the Art Master Plan, the incorporated schedule, and the requirements of this Exhibit. If the Developer and Art Consultant fail to perform in accordance with the requirements of this Exhibit, subject to the Force Majeure and default and cure provisions under Sections 18, 20 and 21 of this Agreement, the City may use any and all funds in the Project Art Account for public art purposes citywide. Further, if the Developer fails to perform, nothing in this Exhibit precludes the City from utilizing any other remedy described in this Agreement.

8. Amendment. The City and/or Developer may amend the approved Master Art Program subject to further approval by the Commission of the Arts.

EXHIBIT Q

Financial Contribution Exhibit

Introduction

This Exhibit Q describes the Developer obligations for financial contributions for the Development Agreement and the Project.

Social Opportunity Endowment (SOE) Fund

1. Developer shall make a $800,000 funding contribution to the Livermore SOE Fund pursuant to the following payment structure:

    a. Prior to recordation of the first Final Map, Developer shall pay $300,000 to the City.

    b. Prior to tract acceptance, Developer shall pay $500,000 to the City.

Community Benefit Fund

1. Developer shall make a $1.2 million funding contribution to the Livermore Community Benefit Fund, subject to the following:

    a. Prior to recordation of the first Final Map, Developer shall pay $300,000 to the City.

    b. Prior to tract acceptance, Developer shall pay $300,000 to the City.

    c. Prior to the first Certificate of Occupancy of the first Commercial Block, Developer shall pay $600,000 to the City.

    d. Half of the total funds ($600,000) shall be utilized to facilitate tenancy or temporary commercial occupancy within the Project to support and enhance the vitality of the neighborhood serving commercial district.

Early Park Contribution

1. Developer shall make an early $2,000,000 funding contribution to the City for Park Improvements concurrently with the formation of the Infrastructure Financing CFD (Exhibit J). This early park improvement funding contribution shall be credited against the Developer's overall required Park Fee contribution.

A LEGIBLE COPY OF THIS DOCUMENT CANBE FOUND ON FILE WITH THE COMMUNI TY DEVELOPMENT DEPARTMENT,
PLANNING DIVISION - 1052 S. LIVERMORE AVE., LIVERMORE, CA 94550

KEY

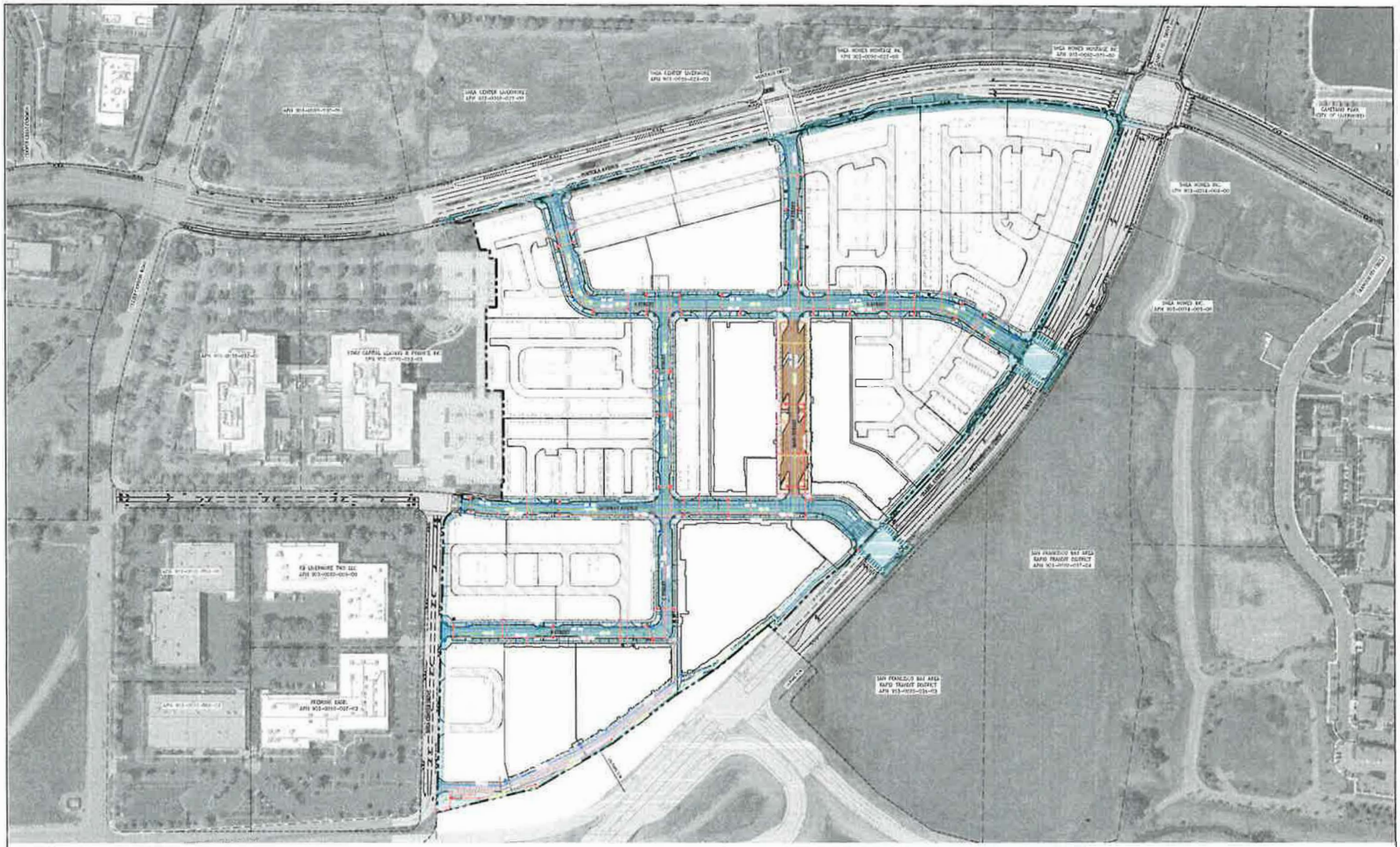
Perimeter Assets

- 7 VLP controllers 21 LPR cameras
- 7 Multisensor CCTV
- 6 PTZ CCTV

Interior Assets

- 9 Multisensor CCTV
- 4 PTZ CCTV

EXHIBIT B



A LEGIBLE COPY OF THIS DOCUMENT CANBE FOUND ON FILE WITH THE COMMUNI TY DEVELOPMENT DEPARTMENT, PLANNING DIVISION - 1052 S. LIVERMORE AVE., LIVERMORE, CA 94550

LEGEND

PROJECT BOUNDARY

CFD ELIGIBLE IMPROVEMENTS SUMMARY

DESCRIPTION	INFRASTRUCTURE
SAN RAMON AVENUE & MAIN STREET	UTILITY IMPROVEMENTS
FORMULA AVENUE / ISABEL AVENUE / SHEA CENTER DRIVE / GATEWAY AVENUE/ MAIN STREET/ A STREET / B STREET / C STREET / EVA & TRAIL BOULEVARD	VARIOUS STREET IMPROVEMENTS

PROPOSED CFD ELIGIBLE INFRASTRUCTURE

ISABEL CROSSING

CITY OF LIVERMORE ALAMEDA COUNTY CALIFORNIA

SCALE: 1" = 60' DATE: JUNE 27, 2024

cbg CIVIL ENGINEERS

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.3**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Introduce an ordinance and waive the first reading revising Municipal Code Chapter 1.28 related to the Conflict of Interest Code - Biennial Notice to revise reporting categories and add or remove positions as appropriate.

RECOMMENDED ACTION

Staff recommends the City Council accept the 2024 Local Agency Biennial Notice, **introduce an ordinance,** and waive the first reading revising Municipal Code Chapter 1.28, Conflict of Interest Code, to revise reporting categories and add or remove positions to align with updates to the City's salary schedule.

SUMMARY

The City of Livermore is required to adopt a Conflict-of-Interest Code and review it biennially. Staff recommends the City Council accept the 2024 Local Agency Biennial Notice and introduce an ordinance revising Municipal Code Chapter 1.28, Conflict of Interest Code, to revise reporting categories and the addition and deletion of positions from the City's salary schedule.

DISCUSSION

The Political Reform Act requires local agencies to adopt a Conflict-of-Interest Code designating which public officials, governmental employees, and consultants are required to file a Statement of Economic Interests (Form 700). Positions that must be included in the Code are those that make, or participate in making, governmental decisions that may foreseeably have a material effect on any financial interest. The Code also assigns disclosure categories that describe the types of financial interests that must be disclosed based on the filer's level of decision-making.

The City is required to review the Conflict-of-Interest Code biennially. The Conflict-of-Interest Code must be revised to reflect additions, deletions, or changes to positions listed in the code. Disclosure categories are also reviewed to ensure they do not require public officials to disclose private financial information that does not relate to their public employment. To streamline reporting requirements, staff has reduced the number of reporting categories from four to two for staff and consultants. Advisory bodies now have a

separate reporting category. The city last reviewed and amended its Conflict-of-Interest Code on July 25, 2022.

Staff has reviewed the Conflict-of-Interest Code and identified the following revisions to reflect the addition of positions from the City's salary schedule:

Positions to be added:

- Supervising Purchasing Specialist - Finance Division; Disclosure Category 2
- GIS Program Manager - Information Technology Division; Disclosure Category 2
- Information Technology Coordinator - Information Technology Division; Disclosure Category 2

Positions to be removed:

- Cyber Security Manager

The next biennial review of the Conflict-of-Interest Code is scheduled for fall of 2026.

FISCAL AND ADMINISTRATIVE IMPACTS

None.

COMMUNITY PILLAR

5: A Community That Works

GOAL

11: Modernize key business systems and processes to increase efficiency and improve transparency.

ATTACHMENTS

1. 2024 Local Agency Biennial Notice
2. Redlined 2024 Conflict of Interest Code
3. Ordinance
4. Exhibit A - Appendix A

Prepared by: Debbie Elam
Acting City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

2024 Local Agency Biennial Notice

Name of Agency: City of Livermore

Mailing Address: 1052 S. Livermore Avenue, Livermore, CA 94550

Contact Person: Debbie Elam Phone No. 925-960-4211

Email: dlelam@livermoreca.gov Alternate Email: cityclerk@livermoreca.gov

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that *(check one BOX):*

☐ **An amendment is required. The following amendments are necessary:**

(Check all that apply.)

- ☐ Include new positions
- ☐ Revise disclosure categories
- ☐ Revise the titles of existing positions
- ☐ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☐ Other *(describe)* _____

☐ **The code is currently under review by the code reviewing body.**

☐ **No amendment is required.** (If your code is over five years old, amendments may be necessary.)

Verification **(to be completed if no amendment is required)**

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

_____ _____

Signature of Chief Executive Officer *Date*

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2024**, or by the date specified by your agency, if earlier, to:

Attn: City Clerk - 1052 S. Livermore Avenue, Livermore, CA 94550

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

Chapter 1.28
CONFLICT OF INTEREST CODE

Sections:

1.28.010 Purpose.
1.28.015 Amendment and review.
1.28.020 Definitions incorporated.
1.28.030 Place of filing.
1.28.040 Filing officer.
1.28.050 Late filings and failure to file statements.
1.28.060 Designated positions.
1.28.070 Disclosure categories.

1.28.010 Purpose.

A. The Political Reform Act of 1974 (Cal. Gov. Code Section 81000 et seq.) (the "Act") requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) which contains the terms of a standard conflict of interest code. This regulation, including any future amendments made by the Fair Political Practices Commission, may be incorporated by reference into a local agency's conflict of interest code. Therefore, the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This chapter, along with the attachments hereto, shall constitute the conflict of interest code of the City of Livermore.

B. Nothing in this chapter is intended to modify or abridge the provisions of the Act commencing with Government Code Section 87100, which is applicable to all public officials of the City of Livermore (the "City") and directs that no public official of the City shall make, participate in the making, or in any way attempt to use their official position to influence a City decision in which the official knows, or has reason to know, that he or she has a financial interest as defined by the Act.

C. This chapter intends to designate those public officials of the City who are involved in City decisions, and to require such designated officials to disclose those financial interests (using Form 700) which could foreseeably be affected, in a material manner, by a City decision made by the official in the performance of the official's responsibilities.

1.28.015 Amendment and review.

The city clerk will review the City's conflict of interest code on an annual basis and if changes are required will submit a revised code for Council approval or if no changes are necessary so notify the City Council by the applicable deadline specified in the Act.

1.28.020 Definitions incorporated.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Section 18110 et seq.), and any amendments to the Act or regulations are incorporated by reference into this conflict of interest code.

1.28.030 Place of filing.

All officials and designated employees required to submit a statement of economic interests shall file their statements with the City's filing officer.

1.28.040 Filing officer.

The filing officer shall make and retain a copy of all statements filed by all officials subject to the Act, and forward the originals of such statements to the Fair Political Practices Commission. The filing officer shall retain the originals of the statements filed by all other designated employees. The filing officer will make all retained statements available for public inspection and reproduction during regular business hours. (Cal. Gov. Code Section 81008.)

1.28.050 Late filings and failure to file statements.

Any violation of this code is subject to the administrative, criminal, and civil sanctions provided in the Act.

The filing officer shall impose penalties for statements of economic interests that are filed late. The fine is $10.00 per day beginning the day after the filing deadline, up to a maximum of $100.00. Late filing penalties can be reduced or waived under certain circumstances as provided in Section 91013 of the Act.

1.28.060 Designated positions.

The persons listed in Appendix A of this chapter are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

1.28.070 Disclosure categories.

A. This code does not establish any disclosure obligations for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of the City is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Act, Government Code Section 87200 et seq. Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth herein specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned herein. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

B. The mayor, members of the City Council and Planning Commission, the City Manager, the City Attorney, and all other City officials who manage public investments, as that term is defined by 2 California Code of Regulations Section 18701(b), are not subject to the City's code but are subject to the disclosure requirements of the Act. (Cal. Gov. Code Section 87200 et seq.). [2 Cal. Code of Regs. Section 18730(b)(3).]

C. Employees/Consultants. Consultants that are registered professional engineers or licensed land surveyors who render professional engineering or surveying services independently of City control or direction and who do not exercise City decision making authority may not be required to comply with disclosure obligations in accordance with California Government Code Section 87100.1.

1. Disclosure Category 1. All designated employees and consultants in this category shall disclose all sources of income including gifts, loans and travel payments; investments; interests in real property and any business entities in which the designated employee holds a business position. "Business position" means any business entity in which the filer is a director, officer, partner, trustee, employee or holds any management position.

2. Disclosure Category 2.

A. All designated employees and consultants in this category shall disclose all ~~sources of income, including gifts, loans and travel payments; investments; interests in real property and any business~~

~~entities in which the designated employee holds a management position if the business entity~~ investments, business positions in business entities, and sources of income (including gifts, loans, and travel payments) if the business entity or source is in or doing business in the jurisdiction of the City and:

i. ~~e~~Engages in land development, construction, the provision of architectural, engineering or other services in connection with construction; the manufacture or sale of electrical, plumbing or other products used in construction; the acquisition or sale of real property or financing of land acquisition, development or construction~~.~~; or

ii. Provides services, supplies, materials, machinery, or equipment of any type utilized by the employee's division; or

iii. Is of the type which contracts with the designated employee's department.

B. All designated employees and consultants in this category shall disclose interests in real property located within the jurisdiction of the City.

3. Disclosure Category 3. ~~All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments; and business entities in which the employee holds a management position if the business entity is of the type which contracts with the City of Livermore to provide services, supplies, materials, machinery or equipment.~~

All designated board, committee, or commission members in this category must report all interests in real property investments, business positions in business entities, income (including gifts, loans, and travel payments) from any source in or doing business in the jurisdiction of the City which are subject to the regulation or supervision of the Board/Committee/Commission.

~~4. Disclosure Category 4. All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments and business entities in which the designated employee holds a management position if the business entity is of the type which contracts with the designated employee's department.~~

~~5~~4. Section 87200 Filers. Local officials specified in Government Code Section 87200 include the mayor, City Council members, City Manager, City Attorney, and planning commissioners.

~~D. Advisory Bodies.~~

~~1. Airport Commission. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management if the source of the income or business entity:~~

~~a. Is of the type that contracts with the City of Livermore to provide services, supplies, materials, machinery or equipment to the Livermore Airport; and/or~~

~~b. Is an airline or manufactures, distributes, sells or markets aircraft or products used in aviation.~~

~~Members of this commission shall disclose interests in real property located within two miles of the Livermore Airport.~~

~~2. Beautification Committee. Members of the Beautification Committee shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:~~

~~a. Is of the type that contracts with the City of Livermore to provide services, supplies, plants, trees, materials, equipment, or other outdoor fixtures or amenities or services, for landscape maintenance, construction or reconstruction; and/or~~

~~b. Engages in land development, construction, landscape design or architecture in connection with the construction, reconstruction or maintenance of property.~~

~~Members of the Beautification Committee shall also disclose interests in real property inside the City.~~

~~3. Climate Action Plan Advisory Commission. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:~~

~~a. Is of the type that contracts to provide data, services, supplies, technology, materials, equipment, or other services, related to energy efficiency, recycling, sustainability, or climate change services.~~

~~4. Commission for the Arts. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:~~

~~a. Engages in land development; residential construction; the provision of architectural, engineering, or other services in connection with residential construction; the acquisition or sale of residential real property; or financing of land acquisition, development or residential construction.~~

~~Members of the Commission for the Arts shall disclose interests in real property located within, or not more than two miles outside, the boundaries of Livermore.~~

~~5. Community Asset Management Program. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments, and business entities in which they have an investment or in which they are a director, officer, partner, trustee or employee or hold any position of management, if the source of income or entity:~~

~~a. Is of the type that contracts with the City of Livermore to provide services, supplies, materials, equipment, or other services, related to City infrastructure, construction or reconstruction.~~

~~b. Engages in the development, construction, design or architecture in connection with the construction, reconstruction or maintenance of City assets.~~

~~c. Is of the type that contracts with the City of Livermore to provide any other goods or services for the operation and maintenance of City assets.~~

~~6. Historic Preservation Commission. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:~~

~~a. Engages in land development or provides contracting, landscape architecture, financial, or other services in connection with construction or reconstruction of property.~~

~~Members of the Historic Preservation Commission shall disclose interests in real property located within or not more than two miles outside the boundaries of Livermore.~~

~~7. Housing Authority. Members of the Livermore Housing Authority shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management, if the source of income or entity:~~

~~a. Is of the type that contracts with the City of Livermore to provide, or otherwise provides, housing services, subsidized housing, transitional housing, or affordable housing services;~~

~~b. Has applied for, plans to apply for, is receiving or within the previous two years has received funds under the Section 8 Voucher Program; and/or~~

~~c. Is of the type that contracts with the City of Livermore or the Livermore Housing Authority to provide any other goods or services for the operation and maintenance of the Authority and its functions.~~

~~Members of the Livermore Housing Authority shall also disclose interests in real property inside the City.~~

~~8. Human Services Commission. Members of this commission shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:~~

~~a. Has applied for, plans to apply for, is receiving or within the previous two years has received funds through the City of Livermore to provide services for meeting human needs; and/or~~

~~b. Provides underwriting, legal, or financial services in connection with the issuance of mortgage revenue or other housing bonds.~~

~~Members of the Human Services Commission shall disclose interests in real property located within, or not more than two miles outside, the boundaries of Livermore.~~

~~9. Library Board of Trustees. Members of this board shall disclose sources of income, including gifts, loans, and travel payments; and business entities in which they have an investment or in which they are a director, officer, partner, trustee, or employee or hold any position of management if the source of the income or business entity:~~

~~a. Manufactures, repairs, distributes, sells, leases, or otherwise markets library materials and equipment including but not limited to books, periodicals, art slides or prints, records, or cataloguing equipment or systems; and/or~~

~~b. Is of the type that contracts with the City of Livermore to provide any other goods or services to the library.~~

~~Members of the Library Board of Trustees shall disclose interests in real property within one-half mile of any public library in Livermore.~~

Appendix A

City of Livermore Conflict of Interest Code List of Designated Positions

POSITION	DISCLOSURE CATEGORY
ADMINISTRATIVE SERVICES DEPARTMENT	
Administrative Services Director/Treasurer (Resolution 2009-205)	1
Assistant Administrative Services Director (Confidential)	1
~~**City Clerk Division**~~	
~~City Clerk~~	~~1~~
~~Assistant City Clerk~~	~~1~~
~~Deputy City Clerk~~	~~1~~
~~**Cyber Security Division**~~	
~~Cyber Security Manager~~	~~3~~
Finance Division	
Supervising Purchasing Specialist	2

POSITION	DISCLOSURE CATEGORY
Purchasing Specialist	~~3~~ 2
Financial Services Manager	~~3~~ 2
Accounting Supervisor	~~3~~ 2
Human Resources Division	
Human Resources Manager (Confidential)	1
Human Resources Analyst Senior (Confidential)	1
Human Resources Analyst I I (Confidential)	1
Human Resources Analyst I (Confidential)	1
Information Technology Division	
Information Technology Manager	~~3~~ 2
GIS Program Manager	2
Information Technology Operations Manager	2
Systems Administrator	~~3~~ 2
Geographic Information Services Specialist	~~3~~ 2
Information Technology Coordinator	2
Senior Information Technology Technician	~~3~~ 2
CITY ATTORNEY'S OFFICE	
Senior Assistant City Attorney (Confidential)	1
Assistant City Attorney (Confidential)	1
Deputy City Attorney (Confidential)	1
Risk Manager (Confidential)	1
Management Analyst (Confidential)	1
CITY MANAGER'S OFFICE	
Assistant City Manager	1
Assistant to the City Manager (Confidential)	1
Deputy City Manager (Confidential)	1
City Clerk Division	
City Clerk	1
Assistant City Clerk	1
Deputy City Clerk	1
COMMUNITY DEVELOPMENT DEPARTMENT	
Administration Division	

POSITION	DISCLOSURE CATEGORY
Community Development Director	1
Assistant Community Development Director	1
Housing and Human Services Division	
Housing and Human Services Manager	~~4~~ 2
Housing Programs Manager	~~4~~ 2
Human Services Program Manager	~~4~~ 2
Building Division	
Building Official	1
Senior Building Inspector	2
Building Inspector (I, II, III)	2
Plan Check Engineer	2
Permit Center Manager	2
Inspection and Neighborhood Preservation Manager	2
Neighborhood Preservation Officer	2
Engineering Division	
City Engineer	1
Assistant City Engineer	2
Assistant Engineer	2
Junior Engineer	2
Engineering Specialist	2
Civil Engineer (Junior, Assistant, Associate, & Senior)	2
Engineering Technician (Senior, Associate, & Assistant)	2
Construction Inspection Manager	2
Transportation Engineer (Senior & Associate)	2
Planning Division	
Planning Manager	1
Planner (Assistant, Associate, Senior, & Principal)	2
INNOVATION AND ECONOMIC DEVELOPMENT DEPARTMENT	
Innovation and Economic Development Director	1

POSITION	DISCLOSURE CATEGORY
Economic Development Manager	2
Economic Development Specialist	~~4~~ 2
LIBRARY SERVICES DEPARTMENT	
Director of Library Services	~~4~~ 1
Assistant Library Director	~~4~~ 2
Supervising Librarian	~~4~~ 2
POLICE DEPARTMENT	
Police Chief	~~3~~ 1
Police Captain	~~4~~ 2
Police Lieutenant	~~4~~ 2
Information Technology Coordinator	~~4~~ 2
Police Facility and Equipment Manager	~~4~~ 2
Police Business Services Manager	~~4~~ 2
Police Support Services	~~4~~ 2
Police Media & Community Relations Analyst	~~4~~ 2
Horizons	
Youth and Family Services Manager – Clinical	~~4~~ 2
Youth and Family Services Manager - Programs	~~4~~ 2
PUBLIC WORKS DEPARTMENT	
Administration Division	
Public Works Director	1
Assistant Public Works Director	1
Public Works Manager	2, ~~4~~
Public Works Supervisor	~~4~~ 2
Airport Division	
Airport Manager	2, ~~4~~
Maintenance Division	
Maintenance and Golf Operations Manager	2, ~~4~~
Water and Water Resources Division	
Water Distribution Operations Manager	~~4~~ 2
Water Resources Communications Representative	~~4~~ 2

POSITION	DISCLOSURE CATEGORY
Water Resources Coordinator	~~4~~ 2
Water Resources Division Manager	2, ~~4~~
Water Resources Operations Manager	~~4~~ 2
Water Resources Source Control Inspector	~~4~~ 2
GENERAL CATEGORIES	
These categories cross departmental lines and are designated depending upon the type of duties to which they are assigned.	
Special Projects Corrdinator	Depending On Assignment
Management Analyst	~~2~~ Depending On Assignment
Management Analyst II	~~4~~ Depending On Assignment
Senior Management Analyst	~~3~~ Depending On Assignment
Management Analyst Confidential	~~1~~ Depending On Assignment
Senior Management Analyst Confidential	~~1~~ Depending On Assignment
Advisory Bodies	
Airport Commission	3
Beautification Committee	~~2~~, 3
~~Climate Action Plan Advisory Committee~~	~~3~~
Commission for the Arts	~~2~~
~~Community Asset Management Program~~	~~2~~
General Plan Advisory Committee	3
Historic Preservation Commission	~~2~~, 3
Housing Authority	~~2~~
Human Services Commission	~~2~~
Library Board of Trustees	3

Consultant – a person who contracts with the City to provide work that falls into one of the following categories. The disclosure category for consultant is dependent upon the type of work being performed.

1. Work of the type and/or nature that could or would be done by a designated employee identified in the City of Livermore conflict of interest code. The City Manager, or his or her designee, may find that a person need not fully comply with the disclosure requirements upon a written determination that the work and duties contracted are limited in scope and full compliance is unnecessary. The written determination shall identify what level of disclosure, if any, is required.
2. Work that involves making or participating in making decisions which may foreseeably have a material effect on a financial interest subject to the reporting requirements of the Political Reform Act.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE AMENDING TITLE 1, CHAPTER 1.28, *CONFLICT OF INTEREST CODE*, OF THE LIVERMORE MUNICIPAL CODE TO UPDATE DISCLOSURE CATEGORIES AND AMEND APPENDIX A

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES ORDAIN AS FOLLOWS:

Section 1. *Findings.* The Political Reform Act requires that every local government agency amend its Conflict of Interest Code as positions are added, deleted, or changed. It has been determined that amendments are required for the City of Livermore's Conflict of Interest Code and list of designated positions.

Section 2. *Purpose.* This ordinance makes several changes to the Livermore Municipal Code Chapter 1.28 *Conflict of Interest Code* to update the disclosure categories and the positions designated to the disclosure categories.

Section 3. *Instruction for Publication.* The amendments made by this ordinance are made as follows for transparency. Deletions are reflected in this ordinance using a strikethrough, and new language is underlined. However, language with a strikethrough, and the underlines, will not be codified. The codification will only reflect the final language.

Section 4. *Amendment – Municipal Code.* The Livermore Municipal Code is hereby amended as follows.

A. Section 1.28.070 *Designated positions*, subsection (C) is hereby amended and restated as set forth below:

C. Employees/Consultants. Consultants that are registered professional engineers or licensed land surveyors who render professional engineering or surveying services independently of City control or direction and who do not exercise City decision making authority may not be required to comply with disclosure obligations in accordance with California Government Code Section 87100.1.

1. Disclosure Category 1. All designated employees and consultants in this category shall disclose all sources of income including gifts, loans and travel payments; investments; interests in real property and any business entities in which the designated employee holds a business position. "Business position" means any business entity in which the filer is a director, officer, partner, trustee, employee or holds any management position.

2. Disclosure Category 2.

A. All designated employees and consultants in this category shall disclose all ~~sources of income, including gifts, loans and travel payments; investments; interests in real property and any business entities in which the designated employee holds a management position if the business entity~~ investments, business positions in business entities, and sources of income (including gifts, loans, and travel payments) if the business entity or source is in or doing business in the jurisdiction of the City and:

i. ~~e~~Engages in land development, construction, the provision of architectural, engineering or other services in connection with construction; the manufacture or sale of electrical, plumbing or other products used in construction; the acquisition or sale of real property or financing of land acquisition, development or construction~~.~~; or

ii. Provides services, supplies, materials, machinery, or equipment of any type utilized by the employee's division; or

iii. Is of the type which contracts with the designated employee's department.

B. All designated employees and consultants in this category shall disclose interests in real property located within the jurisdiction of the City.

3. Disclosure Category 3. ~~All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments; and business entities in which the employee holds a management position if the business entity is of the type which contracts with the City of Livermore to provide services, supplies, materials, machinery or equipment.~~

All designated board, committee, or commission members in this category must report all interests in real property investments, business positions in business entities, income (including gifts, loans, and travel payments) from any source in or doing business in the jurisdiction of the City which are subject to the regulation or supervision of the Board/Committee/Commission.

~~4. Disclosure Category 4. All designated employees and consultants in this category shall disclose all sources of income, including gifts, loans and travel payments; investments and business entities in which the designated employee holds a management position if the business entity is of the type which contracts with the designated employee's department.~~

~~5~~4. Section 87200 Filers. Local officials specified in Government Code Section 87200 include the mayor, City Council members, City Manager, City Attorney, and planning commissioners.

B. Section 1.28.070 *Designated positions*, subsection (D) Advisory Bodies is hereby deleted.

C. Appendix A *City of Livermore Conflict of Interest Code List of Designated Positions* of Chapter 1.28 of the Livermore Municipal Code is hereby amended, as set forth in Exhibit A, attached hereto.

Section 5. *Environmental.* The passage of this ordinance is not a project according to the definition in the California Environmental Quality Act and, therefore, is not subject to the provisions requiring environmental review.

Section 6. *Severability*. If any part of this ordinance is declared invalid by a court, such invalidity shall not affect any of the remaining parts.

Section 7. *Publication and Effective Date*. This ordinance shall be published once in a newspaper of general circulation of the City of Livermore within fifteen days after its adoption and shall take effect and be in force 30 days from and after its adoption.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The ordinance was adopted at the regular meeting of the City Council held on _____, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor, City of Livermore

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Appendix A

Appendix A

City of Livermore Conflict of Interest Code List of Designated Positions

POSITION	DISCLOSURE CATEGORY
ADMINISTRATIVE SERVICES DEPARTMENT	
Administrative Services Director/Treasurer (Resolution 2009-205)	1
Assistant Administrative Services Director (Confidential)	1
Finance Division	
Supervising Purchasing Specialist	2
Purchasing Specialist	2
Financial Services Manager	2
Accounting Supervisor	2
Human Resources Division	
Human Resources Manager (Confidential)	1
Human Resources Analyst Senior (Confidential)	1
Human Resources Analyst I I (Confidential)	1
Human Resources Analyst I (Confidential)	1
Information Technology Division	
Information Technology Manager	2
GIS Program Manager	2
Information Technology Operations Manager	2
Systems Administrator	2
Geographic Information Services Specialist	2
Information Technology Coordinator	2
Senior Information Technology Technician	2
CITY ATTORNEY'S OFFICE	
Senior Assistant City Attorney (Confidential)	1
Assistant City Attorney (Confidential)	1
Deputy City Attorney (Confidential)	1
Risk Manager (Confidential)	1

POSITION	DISCLOSURE CATEGORY
Management Analyst (Confidential)	1
CITY MANAGER'S OFFICE	
Assistant City Manager	1
Assistant to the City Manager (Confidential)	1
Deputy City Manager (Confidential)	1
City Clerk Division	
City Clerk	1
Assistant City Clerk	1
Deputy City Clerk	1
COMMUNITY DEVELOPMENT DEPARTMENT	
Administration Division	
Community Development Director	1
Assistant Community Development Director	1
Housing and Human Services Division	
Housing and Human Services Manager	2
Housing Programs Manager	2
Human Services Program Manager	2
Building Division	
Building Official	1
Senior Building Inspector	2
Building Inspector (I, II, III)	2
Plan Check Engineer	2
Permit Center Manager	2
Inspection and Neighborhood Preservation Manager	2
Neighborhood Preservation Officer	2
Engineering Division	
City Engineer	1
Assistant City Engineer	2
Assistant Engineer	2
Junior Engineer	2
Engineering Specialist	2
Civil Engineer (Junior, Assistant, Associate, & Senior)	2

POSITION	DISCLOSURE CATEGORY
Engineering Technician (Senior, Associate, & Assistant)	2
Construction Inspection Manager	2
Transportation Engineer (Senior & Associate)	2
Planning Division	
Planning Manager	1
Planner (Assistant, Associate, Senior, & Principal)	2
INNOVATION AND ECONOMIC DEVELOPMENT DEPARTMENT	
Innovation and Economic Development Director	1
Economic Development Manager	2
Economic Development Specialist	2
LIBRARY SERVICES DEPARTMENT	
Director of Library Services	1
Assistant Library Director	2
Supervising Librarian	2
POLICE DEPARTMENT	
Police Chief	1
Police Captain	2
Police Lieutenant	2
Information Technology Coordinator	2
Police Facility and Equipment Manager	2
Police Business Services Manager	2
Police Support Services	2
Police Media & Community Relations Analyst	2
Horizons	
Youth and Family Services Manager – Clinical	2
Youth and Family Services Manager - Programs	2
PUBLIC WORKS DEPARTMENT	
Administration Division	

POSITION	DISCLOSURE CATEGORY
Public Works Director	1
Assistant Public Works Director	1
Public Works Manager	2
Public Works Supervisor	2
Airport Division	
Airport Manager	2
Maintenance Division	
Maintenance and Golf Operations Manager	2
Water and Water Resources Division	
Water Distribution Operations Manager	2
Water Resources Communications Representative	2
Water Resources Coordinator	2
Water Resources Division Manager	2
Water Resources Operations Manager	2
Water Resources Source Control Inspector	2
GENERAL CATEGORIES	
These categories cross departmental lines and are designated depending upon the type of duties to which they are assigned.	
Special Projects Corrdinator	Depending On Assignment
Management Analyst	Depending On Assignment
Management Analyst II	Depending On Assignment
Senior Management Analyst	Depending On Assignment
Management Analyst Confidential	Depending On Assignment
Senior Management Analyst Confidential	Depending On Assignment
Advisory Bodies	
Airport Commission	3
Beautification Committee	3
Commission for the Arts	3
General Plan Advisory Committee	3
Historic Preservation Commission	3
Housing Authority	3
Human Services Commission	3
Library Board of Trustees	3

Consultant – a person who contracts with the City to provide work that falls into one of the following categories. The disclosure category for consultant is dependent upon the type of work being performed.

1. Work of the type and/or nature that could or would be done by a designated employee identified in the City of Livermore conflict of interest code. The City Manager, or his or her designee, may find that a person need not fully comply with the disclosure requirements upon a written determination that the work and duties contracted are limited in scope and full compliance is unnecessary. The written determination shall identify what level of disclosure, if any, is required.

2. Work that involves making or participating in making decisions which may foreseeably have a material effect on a financial interest subject to the reporting requirements of the Political Reform Act.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.4**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing the City Manager to execute a fourth amendment to the agreement with Swaim Biological, Inc. for on-call environmental support services, for the City's Stream Maintenance Program and other projects, until December 31, 2025, increasing the not-to-exceed agreement amount from $1,200,000 to $1,450,000.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a fourth amendment to the agreement with Swaim Biological, Inc. for on-call environmental support services, for the City's Stream Maintenance Program and other projects until December 31, 2025, increasing the not-to-exceed agreement amount from $1,200,000 to $1,450,000.

SUMMARY

The Engineering Division utilizes on-call environmental support services to help implement a number of capital improvement, operating budget, and development projects. On-call environmental support services also assist the City's Stream Maintenance Program. Swaim Biological, Inc. has been providing these services under the current on-call contract since May 2019. The fourth amendment to the Professional Services Agreement with Swaim Biological, Inc. will increase the amount of the agreement from $1,200,000 to a not-to-exceed amount of $1,450,000.

DISCUSSION

The City Council authorized a Professional Services Agreement with Swaim Biological, Inc. on May 14, 2019, in the amount of $500,000 for on-call environmental support services for various capital improvement, operating budget, and development projects. A first amendment to the original agreement was authorized by the City Council on June 26, 2020, to increase the total contract amount by $300,000 to a not-to-exceed amount of $800,000. The City Council approved a second amendment on June 29, 2021, that extended the term of the agreement to June 30, 2023. A third amendment to the original agreement was authorized by City Council on December 12, 2022, to increase the amount of the agreement from $800,000 to $1,200,000 and extend the term of the agreement to December 31, 2025. This fourth amendment will increase the amount of the agreement from $1,200,000 to $1,450,000 to

allow Swaim Biological Inc. to continue to provide essential support for the City's Stream Maintenance Program and other projects until December 31, 2025.

Swaim Biological, Inc. has supported the City's Stream Maintenance Program since 2019 by analyzing and quantifying potential environmental impacts, helping the city submit environmental permits, and obtain approval from the regulating agencies. Swaim Biological, Inc. has been providing biological monitoring services during Stream Maintenance Program construction projects. Additional support services are needed for the Stream Maintenance Program in preparing the plan, permitting, completing the remaining bank repair work, and annual stream maintenance in 2024 and 2025 including monitoring and reporting for some of the City of Livermore (City)'s riparian mitigation areas. Swaim Biological, Inc. also provides environmental support for capital improvement projects. They provided biological monitoring services for the Dalton Reservoir Project and helped analyze environmental impacts and permit requirements for projects including the Airport Water Quality and Habitat Management Plan Basins, the Springtown Trunkline Replacement Project, and the Las Colinas Trail Project.

Swaim Biological, Inc. has also helped the City obtain over $3,000,000 in grant funding for the Arroyo Las Positas Desilting through Las Positas Golf Course Project and is supporting grant funding efforts for the City's Habitat Conservation Program. Swaim Biological, Inc. is local, cost effective, and has proven to be very knowledgeable and responsive. They are very familiar with environmental conditions in the Tri-Valley, and they also have good relationships with all of the regulating agencies. This fourth amendment will allow Swaim Biological, Inc. to continue providing environmental support services for annual Stream Maintenance Program activities, riparian habitat monitoring and reporting, capital improvement projects, operating budget activities, development projects, and grant funding opportunities through December 31, 2025.

FISCAL AND ADMINISTRATIVE IMPACTS

Funding for services rendered under this agreement will be derived from the various capital improvement projects in the approved FY 2023-2028 Capital Improvement Plan and the operating budgets for the Engineering Division and Water Resources Division. Therefore, no additional appropriations are necessary.

COMMUNITY PILLAR

5: A City That Works

GOAL

14: Develop, operate, and maintain the City's infrastructure.

ATTACHMENTS

1. Resolution
2. Exhibit A - Fourth Amendment

Prepared by: Pam Lung
Special Projects Coordinator

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A FOURTH AMENDMENT TO THE AGREEMENT WITH SWAIM BIOLOGICAL, INC. INCREASING THE NOT-TO-EXCEED AMOUNT FROM $1,200,000 TO $1,450,000 TO CONTINUE TO PROVIDE ON-CALL ENVIRONMENTAL SUPPORT SERVICES

On May 14, 2019, the City of Livermore ("City") entered into a Professional Services Agreement in the amount of $500,000 with Swaim Biological Inc. to provide on-call environmental assessments and surveys, permitting and compliance support, construction support, habitat mitigation and restoration planning, and other services related to document review, graphics development, data collection, management, and presentation using global positioning systems (GPS) and geographic information systems (GIS) for various capital improvement and miscellaneous development projects.

On June 26, 2020, City and Consultant amended the Original Agreement, as the First Amendment, to increase the scope of services and Consultant's compensation by $300,000 to a not-to-exceed compensation amount of $800,000 due to increased services required of Consultant for work added and associated with mitigation monitoring and close-out, conservation easement assistance, creek repair and implementation, and Stream Maintenance Program support.

On June 29, 2021, City and Consultant amended the Original Agreement, as the Second Amendment, to extend the term from July 1, 2021 to June 30, 2023.

On January 24, 2023, City and Consultant amended the Original Agreement, First and Second Amendment, as the Third Amendment, to increase the Consultant's compensation by $400,000 to a not-to-exceed amount of $1,200,000 to continue to provide on-call environmental support related services for various projects in the Capital Improvement Plan and miscellaneous development related projects, and extend the term of the agreement from June 30, 2023 to December 31, 2025.

City and Consultant now desire to amend the Original Agreement and the First, Second and Third Amendments, to increase the Consultant's compensation by $250,000 to a not-to-exceed amount of $1,450,000 to continue to provide on-call environmental support related services for the Stream Maintenance Program, various projects in the Capital Improvement Plan, Operating Budget, and miscellaneous development related projects. This is the Fourth Amendment to the Original Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager to execute a Fourth Amendment to the Professional Services Agreement with Swaim Biological, Inc., attached hereto as Exhibit A, increasing the not-to-exceed amount from $1,200,000 to $1,450,000.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Fourth Amendment to Professional Services Agreement with Swaim Biological, Inc.

EXHIBIT A

FOURTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FOURTH AMENDMENT is made and entered into this ____ day of _____, 20 , by and between the City of Livermore ("City"), a municipal corporation, and Swaim Biological, Inc. ("Consultant"), a California corporation.

RECITALS

On May 14, 2019, City and Consultant entered into an agreement for Consultant to provide professional on-call environmental support services in the amount of $500,000 that covered environmental assessments and surveys, permitting and compliance support, construction support, habitat mitigation and restoration planning, and other services related to document review, graphics development, and data collection, management, and presentation using global positioning systems (GPS) and geographic information systems (GIS) services to City ("Original Agreement"). Section 21 of the Original Agreement requires that any modifications to it must be in writing and signed by the parties.

On June 26, 2020, City and Consultant amended the Original Agreement, as the First Amendment, to increase the scope of services and Consultant's compensation by $300,000 to a not-to-exceed compensation amount of $800,000 due to increased services required of Consultant for work added and associated with mitigation monitoring and close-out, conservation easement assistance, creek repair and implementation, and Stream Maintenance Program support. ("First Amendment")

On June 29, 2021, City and Consultant amended the Original Agreement, as the Second Amendment, to extend the term from July 1, 2021 to June 30, 2023. ("Second Amendment")

On January 24, 2023, City and Consultant amended the Original Agreement, First Amendment and Second Amendment, as a Third Amendment, to increase the scope of services and Consultant's compensation by $400,000 to a not-to-exceed amount of $1,200,000 due to increased services required of Consultant for work added and associated with mitigation monitoring and close-out, conservation easement assistance, creek repair and implementation and Stream Maintenance Program Support and extended the term from June 30, 2023 to December 31, 2025. ("Third Amendment").

City and Consultant desire to amend the Original Agreement, First Amendment, Second Amendment and Third Amendment, as a Fourth Amendment, to increase the scope of services, corresponding insurance requirements identified in Exhibit B-1 and Consultant's compensation by $250,000 to a not-to-exceed amount of $1,450,000 due to increased services required of Consultant for work added and associated with mitigation monitoring and close-out, conservation easement assistance, creek repair and implementation, and Stream Maintenance Program support through the end of the contract period ending December 31, 2025. This is the Fourth Amendment to the Original

Agreement.

AGREEMENT

NOW, THEREFORE, City and Consultant hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. The Original Agreement is amended as follows:

   A. Section 5 (a) of the Original Agreement is amended to read as follows:

   The total compensation payable by City to Consultant for the Services SHALL NOT EXCEED the sum of $1,450,000 ("not-to-exceed amount"). City shall compensate Consultant for the Services rendered as part of the Original Agreement, First Amendment and Second Amendment at the hourly rates, task amounts, or travel expenses set forth in Exhibit A of the Original Agreement. City shall compensate Consultant for services rendered as part of the Third Amendment and Fourth Amendment at the hourly rates, task amounts, or travel expenses set forth in Exhibit A-3 of the Third Amendment up to the not-to-exceed amount. Except as provided in the body of this Agreement, the hourly rates, task amounts, or travel expenses are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

   B. Section 12 of the Original Agreement is amended to read as follows:

   Consultant shall procure and maintain Insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit "B-1" against claims that may arise from or in connection with this Agreement and performance of the Services. Upon reasonable written notice, Consultant shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager.

2. These amendments are prospective and only apply to the Services rendered by Consultant after the execution of this Amendment. Unless otherwise stated herein, this Amendment does not relieve the parties of the terms and conditions of the Original Agreement as written and in effect at the time the Services were rendered.

3. Except as amended above, the Original Agreement remains in full force and effect.

EXHIBIT A

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement effective on the date first written above.

CONSULTANT:

DocuSigned by:
Karen Swaim
9463A614770B467...

Karen Swaim
President

Dated:

8/1/2024 | 10:35 AM PDT

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

DocuSigned by:
Tara Mazzanti
B099F65715704E2...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
A5E7D34BB6A748A...

Risk Manager/Analyst

Attachments: Exhibit B-1 - Insurance Requirements

EXHIBIT B-1

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Consultant/Contractor shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $2,000,000 per occurrence/**$4,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability."
4. Professional Liability/ Cyber Liability/Errors and Omissions:
   $2,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated

volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.5**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing execution of a second amendment to the agreement with HMH Engineers for on-call engineering services, increasing the not-to-exceed agreement amount from $1,200,000 to $1,800,000, and extending the term of the agreement to December 31, 2027 to continue to provide engineering services for various capital improvements program projects, including, but not limited to, the Street Resurfacing 2022 Project 2022-01, the Arroyo Rd Trail T-13 Segment B Project 2019-55, and the Vasco Widening Project 2018-37.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a second amendment to the agreement with HMH Engineers for on-call engineering services, increasing the not-to-exceed agreement amount from $1,200,000 to $1,800,000, and extending the term of the agreement to December 31, 2027 to continue to provide engineering services for various capital improvements program projects, including, but not limited to, the Street Resurfacing 2022 Project 2022-01, the Arroyo Rd Trail T-13 Segment B Project 2019-55, and the Vasco Widening Project 2018-37.

SUMMARY

On February 10, 2021, the City of Livermore (City) and HMH Engineers (Consultant) entered into an Engineering Services Agreement in the amount of $600,000 to provide on-call engineering services (Original Agreement). On January 24, 2023, the City Manager executed a first amendment to the Original Agreement to increase the not-to-exceed amount to $1,200,000. This second amendment will increase the amount of the agreement from $1,200,000 to $1,800,000 and extend the term of the agreement from December 31, 2025, to December 31, 2027 to allow HMH Engineers to continue to provide engineering services for various capital improvements program projects, including, but not limited to, the Street Resurfacing 2022 Project 2022-01, the Arroyo Rd Trail T-13 Segment B Project 2019-55, and the Vasco Widening Project 2018-37.

DISCUSSION

On February 10, 2021, the City of Livermore (City) and HMH Engineers (Consultant) entered into an

Engineering Services Agreement in the amount of $600,000 to provide on call engineering services for various capital improvement and development projects (Original Agreement). On January 24, 2023, the City Manager executed a first amendment to the Original Agreement to increase the not-to-exceed amount to $1,200,000 and extend the term to December 31, 2025.

The Original Agreement and First Amendment allowed HMH Engineers to complete the design and construction of the Montage Trail Connection to Collier Canyon Road Project 2019-44, provide geotechnical assessment for the Portola Avenue Slope Failure Project S202300P, develop the design for Arroyo Rd Trail T-13 Segment B Project No. 2019-55, and provide geotechnical engineering for Murrietta Road settlement under the Street Resurfacing 2022 Project 2022-01.

City and Consultant now desire to amend the Original Agreement and First Amendment to continue to provide engineering services for various capital improvement program projects such as the design for the Murrietta Road settlement under the Street Resurfacing 2022 Project 2022-01, complete the landscape and bridge design for the Arroyo Rd Trail T-13 Segment B Project 2019-55, and complete the design for the Vasco Widening Project 2018-37. Additional scope of work was identified for the Arroyo Rd Trail T-13 Segment B Project 2019-55 due to coordination with project stakeholders, and for the Vasco Widening Project 2018-37 due to environmental regulatory agency consultation regarding the adjacent Garaventa Wetlands. The scope of the engineering services includes field reconnaissance, site survey, geotechnical engineering investigation, environmental clearance, permitting, design, and construction support.

FISCAL AND ADMINISTRATIVE IMPACTS

The Second Amendment increases compensation by $600,000 to a total not-to-exceed amount of $1,800,000. Funding for this amendment will be covered in the approved budgets for various projects in the FY 2023-2028 Capital Improvement Plan. No additional appropriations are required.

COMMUNITY PILLAR

5: A City That Works

GOAL

14: Develop, operate, and maintain the City's infrastructure.

ATTACHMENTS

1. Resolution
2. Exhibit A - Second Amendment

Prepared by: Leon Taing
Senior Civil Engineer

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE AGREEMENT WITH HMH ENGINEERS, INCREASING THE NOT-TO-EXCEED AMOUNT FROM $1,200,000 TO $1,800,000, AND EXTENDING THE TERM OF THE AGREEMENT TO DECEMBER 31, 2027 FOR ON-CALL ENGINEERING SERVICES FOR VARIOUS CAPITAL IMPROVEMENT PROGRAM PROJECTS

On February 10, 2021, the City of Livermore and HMH Engineers entered into an Engineering Services Agreement in the amount of $600,000 to provide on-call engineering services (Original Agreement). On January 24, 2023, the City Manager executed a first amendment to the Original Agreement to increase the not-to-exceed amount to $1,200,000 (First Amendment).

City of Livermore staff and HMH Engineers now desire to amend the Original Agreement and First Amendment to increase the total not-to-exceed amount from $1,200,000 to $1,800,000 and extend the term from December 31, 2025, to December 31, 2027, so that HMH Engineers can continue providing engineering services for various capital improvement and development projects. The scope of the engineering services includes field reconnaissance, site survey, geotechnical engineering investigation, environmental clearance, permitting, design, and construction support.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager to execute a Second Amendment to the Agreement with HMH Engineers for on-call engineering services, increasing the not-to-exceed amount from $1,200,000 to $1,800,000, and extending the term of the agreement to December 31, 2027. A copy of the Agreement is attached hereto as Exhibit A and is incorporated by this reference.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement.

On motion of Council Member_____, seconded by Council Member_____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Second Amendment – HMH Engineers

RESOLUTION NO. _____

EXHIBIT A

SECOND AMENDMENT TO ENGINEERING SERVICES AGREEMENT

THIS SECOND AMENDMENT, is made and entered into this ____ day of _____, 2024, by and between the City of Livermore, a municipal corporation ("City"), and HMH Engineers, a California Corporation ("Consultant").

RECITALS

On February 10, 2021, City and Consultant entered into an agreement in the amount of $600,000 for Consultant to provide on-call civil engineering design and environmental review services for various City's capital improvement and miscellaneous development projects for City ("Original Agreement").

On January 24, 2023, the City Manager executed a first amendment to the Original Agreement to increase the not-to-exceed amount to $1,200,000, and extend the term of the Agreement to December 31, 2025 ("First Amendment"). Section 21 of the Original Agreement requires that any modifications to it must be in writing and signed by the parties.

City and Consultant desire to amend the Original Agreement to continue to provide on-call engineering services as specified in the Original Agreement, increase the Consultant's compensation from $1,200,000 to $1,800,000, and extend the term of the Agreement from December 31, 2025 to December 31, 2027. This is the Second amendment to the Original Agreement.

AGREEMENT

NOW, THEREFORE, City and Consultant hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. The Original Agreement and First Amendment are amended as follows:

   A. Section 6 of the Original Agreement is amended to read as follows: Compensation and Payment. The total compensation payable by City to Consultant for the Services SHALL NOT EXCEED the sum of $1,800,000 ("not-to-exceed amount").

      1. The compensation payable by the City to Consultant for the services required by Exhibit A to the Original Agreement SHALL NOT EXCEED $600,000 ("not-to-exceed amount").
      2. The compensation payable by the City to Consultant for the services required by Exhibit "A-1" to the First Amendment SHALL NOT EXCEED $600,000 ("not-to-exceed amount").

3. The compensation payable by the City to Consultant for the services required by Exhibit "A-2" to the Second Amendment SHALL NOT EXCEED $600,000 ("not-to-exceed amount").

   Except as provided in the body of this Agreement, the hourly rates, task amounts, or travel expenses are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

B. Section 7 of the Original Agreement is amended to read as follows:

   Term: The term of this Agreement commences on February 10, 2021 and terminates upon the depletion of funds or December 31, 2027, whichever occurs first.

2. These amendments are prospective and only apply to the Services rendered by Consultant after the execution of this Amendment. Unless otherwise stated herein, this Amendment does not relieve the parties of the terms and conditions of the Original Agreement as written and in effect at the time the Services were rendered.

3. Except as amended above, the Original Agreement remains in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement effective on the date first written above.

CONSULTANT:

DocuSigned by:

29CD1EF7C8C9496...

By: Jon Cacciotti
Title: Vice President

Dated:

8/6/2024 | 4:15 PM PDT

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

DocuSigned by:

Tara Mazzanti

B099F85715704E2...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:

Jas Sidhu

A5F7D34BB6A748A...

Risk Manager/Analyst

Attachments:

- Exhibit A-2: Rate Schedule

EXHIBIT A

CHARGE RATE SCHEDULE

Professional & Office	2024 1/1/24 - 12/31/24	2025 1/1/25 - 12/31/25	2026 1/1/26 - 12/31/26	2027 1/1/27 - 12/31/27
Principal	$287	$301	$316	$332
Snr Civil Engineering, Land Surveying or Landscape Architect Mgr	$260	$273	$287	$301
Civil Engineering, Land Surveying or Landscape Architect Manager	$227	$238	$250	$263
Senior Planner	$249	$261	$274	$288
Senior Civil Engineer, Land Surveyor or Landscape Architect	$209	$219	$230	$242
Engr. Design Specialist	$201	$211	$222	$233
Design Specialist	$196	$206	$216	$227
Project Planner	$249	$261	$274	$288
Project Civil Engineer, Land Surveyor, or Landscape Architect	$192	$202	$212	$223
Project Arborist	$181	$190	$200	$210
Senior Engineer, Surveyor or Landscape Designer	$198	$208	$218	$229
Engineer, Planner, Surveyor or Landscape Designer	$183	$192	$202	$212
Assistant Engineer, Planner, Surveyor or Landscape Designer	$163	$171	$180	$189
Junior Engineer, Planner, Surveyor or Landscape Designer	$152	$160	$168	$176
Senior Technician	$165	$173	$182	$191
Project Technician	$152	$160	$168	$176
Technician	$141	$148	$155	$163
Assistant Technician	$130	$137	$144	$151
Junior Technician	$108	$113	$119	$125
Intern	$104	$109	$114	$120
Project Support Staff	$101	$106	$111	$117
Field Services				
2-Person Field Crew	$306	$321	$337	$354
3-Person Field Crew	$401	$421	$442	$464
1-Person Field Crew	$214	$225	$236	$248
Senior Field Engineer	$203	$213	$224	$235
Field Engineer	$179	$188	$197	$207

EXHIBIT A

TJKM

RATE SCHEDULE	2024	2025	2026	2027
Principal	$280/hour	$280/hour	$288/hour	$297/hour
Director	230/hour	237/hour	244/hour	251/hour
Senior Project Manager	210/hour	216/hour	222/hour	229/hour
Project Manager	210/hour	216/hour	222/hour	229/hour
Senior Transportation Engineer	175/hour	180/hour	185/hour	191/hour
Transportation Engineer	175/hour	180/hour	185/hour	191/hour
Assistant Transportation Engineer	100-130/hour	103-134/hour	106-138/hour	109-142/hour
Senior Transportation Planner	175/hour	180/hour	185/hour	191/hour
Transportation Planner	125-155/hour	129-160/hour	133-165/hour	137-170/hour
Assistant Transportation Planner	95-130/hour	98-134/hour	101-138/hour	104-142/hour
GIS Specialist	110/hour	113/hour	116/hour	120/hour
Graphics Designer	110/hour	113/hour	116/hour	120/hour
Designer	100/hour	103/hour	106/hour	109/hour
Technical Staff II	90/hour	93/hour	95/hour	98/hour
Administration Staff	80/hour	82/hour	85/hour	87/hour
Production Staff	55/hour	57/hour	58/hour	60/hour

Reimbursable Expenses

Plotting (per sheet)	$18.00
Travel Cost (per mile, subject to change; based on IRS standard mileage rates)...	0.67

All outside services are billed at cost plus a ten percent margin for handling.
Expert Witness charges available upon request.

Rates Effective January 1, 2024-December 31, 2027

EXHIBIT A

BIGGS CARDOSA ASSOCIATES INC
STRUCTURAL ENGINEERS

865 The Alameda
San Jose, CA 95126-3133
Telephone 408.296.5515

CHARGE RATE SCHEDULE

CATEGORY	*Year 2024*	*Year 2025*	*Year 2026*	*Year 2027*
Senior Principal	$326	$347	$369	$393
Principal	$282	$300	$319	$339
Associate	$259	$275	$293	$312
Engineering Manager	$225	$239	$255	$271
Senior Engineer	$203	$216	$232	$247
Project Engineer	$186	$198	$215	$229
Staff Engineer	$171	$182	$198	$211
Assistant Engineer	$157	$167	$181	$193
Junior Engineer	$145	$154	$165	$176
Senior Computer Drafter	$164	$174	$187	$199
Computer Drafter	$145	$154	$165	$176
Junior Computer Drafter	$130	$138	$148	$158
BIM/Visualization Specialist	$164	$174	$187	$199
Project Administrator	$186	$198	$215	$229
Project Coordinator	$152	$162	$176	$187
Secretarial Administrative Services	$117	$124	$135	$144
Construction Manager	$270	$287	$309	$329
Senior Structural Representative	$237	$252	$271	$288
Structural Representative	$210	$223	$241	$257

Subconsultants	Cost Plus 10%
Expenses	Cost Plus 15%
In-House CADD Plots	
Prints	$0.32/ sq. ft.
Plots	$1.60/ sq. ft.
Mylar Plots	$3.20/ sq. ft.

Charge Rates Applicable January 1, 2024 thru December 31, 2027

EXHIBIT A

Table 1. ENGEO Labor Categories and Billing Rates

LABOR CATEGORY	2024	2025	2026	2027
President	$464.00	$478.00	$493.00	$508.00
Principal	$361.00	$372.00	$384.00	$396.00
Associate	$299.00	$308.00	$318.00	$328.00
Subject Matter Expert	$412.00	$425.00	$438.00	$452.00
Senior Engineer/Geologist/Seismologist/Project Manager	$258.00	$266.00	$274.00	$283.00
Project Engineer/Geologist/Seismologist/Manager	$232.00	$239.00	$247.00	$255.00
Staff Engineer/Geologist/Seismologist	$204.00	$210.00	$217.00	$224.00
Assistant Engineer	$165.00	$170.00	$176.00	$182.00
Construction Services Manager II	$211.00*	$218.00*	$225.00*	$232.00*
Construction Services Manager I	$198.00*	$204.00*	$210.00*	$217.00*
Senior Field Representative II	$175.00* / **	$180.00* / **	$186.00* / **	$191.00* / **
Senior Field Representative I	$155.00* / **	$159.00* / **	$164.00* / **	$169.00* / **
Field Representative	$144.00* / **	$149.00* / **	$154.00* / **	$158.00* / **
Senior Laboratory Technician	$180.00	$186.00	$192.00	$198.00
Laboratory Technician	$160.00	$165.00	$170.00	$176.00
Senior GIS Analyst	$186.00	$191.00	$197.00	$203.00
GIS Analyst	$175.00	$181.00	$187.00	$193.00
Senior CAD Specialist	$175.00	$180.00	$186.00	$192.00
CAD Specialist	$160.00	$165.00	$170.00	$176.00
Network Administrator	$258.00	$265.00	$273.00	$282.00
Project Assistant	$144.00	$149.00	$154.00	$159.00
EXPENSE CHARGES				
EXPENSE	**RATE**			
Outside Consultants, Subcontracted Services and Equipment Rental	Cost plus 20%			
Deposition, Mediation, Arbitration, or Court Appearance (Minimum Charge)	$2,400.00 half day / $4,800.00 full day		$2,700.00 half day / $5,400.00 full day	

* Two-hour minimum portal to portal and cancellations within 24 hours.

* Overtime rates are increased by factor of 1.5 for all hours worked in excess of 8 Monday through Friday and the first 8 hours worked on Saturday, and are increased by factor of 2.0 for all hours worked in excess of 12 Monday through Friday, all hours worked in excess of 8 on Saturday, and all hours worked on Sunday and holidays.

** For Prevailing Wage projects, increase the hourly rate by $18.

** Rates increased by factor of 1.25 for night shift hours (hours commencing after 4:00 p.m. or before 4:00 a.m.); rates increased by factor of 1.875 (an additional factor of 1.5) for all night shift hours in excess of 8.

Table 2. ENGEO Equipment and Materials Rates (Costs per Unit)

EQUIPMENT DESCRIPTION	UNIT	2024	2025	2026	2027
Air Content Meter	Hour	$7.21	$7.43	$7.65	$7.88
Bailers (Disposable)	Each	$10.30	$10.61	$10.93	$11.26
Coatings Thickness Kit (eg. Fireproofing, Protective Paint)	Hour	$30.90	$31.83	$32.78	$33.77
Concrete Crack Monitor	Each	$20.60	$21.22	$21.86	$22.51
Coring Machine	Hour	$30.90	$31.83	$32.78	$33.77
Double-Ring Infiltrometer	Hour	$51.50	$53.05	$54.64	$56.28
Electronic Water Level Indicator	Hour	$5.15	$5.30	$5.46	$5.62
Engineering Analysis Software	Hour	$46.35	$47.74	$49.17	$50.65
Equipment Transport(er)	Hour	$103.00	$106.09	$109.27	$112.55
Exploration Equipment (Electric Auger)	Hour	$51.50	$53.05	$54.64	$56.28
Floor Flatness/Floor Level Equipment	Hour	$41.20	$42.44	$43.71	$45.02
Generator	Hour	$15.45	$15.91	$16.39	$16.88
GIS Website Portal Maintenance	Month	$103.00	$106.09	$109.27	$112.55
GPR/GPS Handheld Device	Hour	$10.30	$10.61	$10.93	$11.26
GPR/GPS/Drone Survey Grade Equipment	Hour	$216.30	$222.79	$229.47	$236.36
Hand Auger and Soil Sampler	Hour	$15.45	$15.91	$16.39	$16.88
Hydraulic Pull-Test Equipment	Hour	$25.75	$26.52	$27.32	$28.14
Interface Probe	Hour	$2.06	$2.12	$2.18	$2.25
Magnetic Particle Test Equipment	Hour	$25.75	$26.52	$27.32	$28.14
Moisture Content Test Equipment	Hour	$6.18	$6.37	$6.56	$6.76
Multi-Parameter Water Meter	Hour	$15.45	$15.91	$16.39	$16.88
pH Meter/Turbidity Meter	Hour	$10.30	$10.61	$10.93	$11.26
Photo Ionization Detector	Hour	$20.60	$21.22	$21.86	$22.51
Reinforcing Bar Locator	Hour	$103.00	$106.09	$109.27	$112.55
Sampling Tubes	Each	$10.30	$10.61	$10.93	$11.26
Sand Cone Equipment and Material	Hour	$5.15	$5.30	$5.46	$5.62
Schmidt Hammer	Hour	$20.60	$21.22	$21.86	$22.51
Seismometer	Hour	$51.50	$53.05	$54.64	$56.28
Skidmore Wilhelm Bolt Tension Calib.	Hour	$41.20	$42.44	$43.71	$45.02
Slope Inclinometer/Settlement Indicator/VW Readout	Hour	$51.50	$53.05	$54.64	$56.28
Torque Wrench	Hour	$15.45	$15.91	$16.39	$16.88
Transfer Pump	Hour	$3.09	$3.18	$3.28	$3.37
Ultrasonic Equipment	Hour	$51.50	$53.05	$54.64	$56.28
Vapor Emission Test Kit	Kit	$41.20	$42.44	$43.71	$45.02
Vector Conversion	Conversion	$61.80	$63.65	$65.56	$67.53

EXHIBIT A

EQUIPMENT DESCRIPTION	UNIT	2024	2025	2026	2027
Vehicle, nuclear gauge, equipment, wireless communication. *Add $5.00/hr. for RTK enabled autotesting equipment.	Hour	33.99*	35.01*	$36.06*	$37.14*
Vehicle, equipment, wireless communication	Hour	$23.69	$24.40	$25.13	$25.89
Vibration Monitor	Month	$1,854.00	$1,909.62	$1,966.91	$2,025.92
Water Sampling Pumps	Hour	$20.60	$21.22	$21.86	$22.51
Bridge Toll	Actual	Actual	Actual	Actual	Actual
Mileage	Mile	$1.01	$1.04	$1.07	$1.10
Parking	Actual	Actual	Actual	Actual	Actual
AutoCAD, Civil 3D, GIS, Drone Data Processing	Hour	$29.78	$30.77	$31.69	$32.64
Photocopies Black & White	Each	$0.26	$0.27	$0.28	$0.29
Photocopies Color 11 x 17	Each	$1.55	$1.59	$1.64	$1.69
Photocopies Color 8½ x 11	Each	$1.03	$1.06	$1.09	$1.12
Plot - Black & White	Square Foot	$3.09	$3.18	$3.28	$3.37
Plot - Color	Square Foot	$4.12	$4.24	$4.37	$4.50
Postage	Actual	Actual	Actual	Actual	Actual
Scan - Black & White	Each	$1.55	$1.59	$1.64	$1.69
Scan - Color	Each	$3.86	$3.98	$4.10	$4.22
Telephone	Minute	$0.52	$0.53	$0.55	$0.56

EXHIBIT 10-H2 COST PROPOSAL PAGE 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant **Circlepoint** ☐ Prime Consultant ☒ Subconsultant ☐ 2nd Tier Subconsultant

Project No: Prof Engineering, Environmental and Construction Support Services Contract No. On-Call Contract Participation Amount $ TBD Date: 6/20/2024

For Combined Rate 61.79% Fringe Benefit % + 143.66% Overhead % + 0.00% General & Administrative = 205.45% Combined ICR %

For Home Office Rate Fringe Benefit % + Overhead % + General & Administrative = = Home Office ICR %

For Field Office Rate Fringe Benefit % + Overhead % + General & Administrative = = Field Office ICR %

FEE % = 10%

BILLING INFORMATION				CALCULATION INFORMATION					
Name/Job Title/ Classification (1)	Hourly Billing Rates (2)			Effective date of hourly rate		Actual or Avg. Hourly Rate (3)	% or $ increase	Hourly Range - for classifications only	
	Straight	OT (1.5)	OT (2.0)	From	To				
Ivy Morrison	**$305.76**	N/C	N/C	1/1/2024	12/31/2024	**$91.00**	0.00%	Not Applicable	
Principal-in-Charge	$321.04	N/C	N/C	1/1/2025	12/31/2025	$95.55	5.00%		
	$337.10	N/C	N/C	1/1/2026	12/31/2026	$100.33	5.00%		
	$353.95	N/C	N/C	1/1/2027	12/31/2027	$105.34	5.00%		
Brianna Bohonok	**$262.08**	N/C	N/C	1/1/2024	12/31/2024	**$78.00**	0.00%	Not Applicable	
Associate Principal	$275.18	N/C	N/C	1/1/2025	12/31/2025	$81.90	5.00%		
	$288.94	N/C	N/C	1/1/2026	12/31/2026	$86.00	5.00%		
	$303.39	N/C	N/C	1/1/2027	12/31/2027	$90.29	5.00%		
Sr Managing Principal	**$413.27**	N/C	N/C	1/1/2024	12/31/2024	**$123.00**	0.00%	$113.04	$132.49
	$433.94	N/C	N/C	1/1/2025	12/31/2025	$129.15	5.00%	$118.69	$139.11
	$455.63	N/C	N/C	1/1/2026	12/31/2026	$135.61	5.00%	$124.63	$146.07
	$478.42	N/C	N/C	1/1/2027	12/31/2027	$142.39	5.00%	$130.86	$153.37
Managing Principal	**$356.15**	N/C	N/C	1/1/2024	12/31/2024	**$106.00**	0.00%	$103.32	$109.40
	$373.96	N/C	N/C	1/1/2025	12/31/2025	$111.30	5.00%	$108.49	$114.87
	$392.66	N/C	N/C	1/1/2026	12/31/2026	$116.87	5.00%	$113.91	$120.61
	$412.29	N/C	N/C	1/1/2027	12/31/2027	$122.71	5.00%	$119.61	$126.64
Principal-in-Charge	**$305.76**	N/C	N/C	1/1/2024	12/31/2024	**$91.00**	0.00%	$85.09	$97.24
	$321.04	N/C	N/C	1/1/2025	12/31/2025	$95.55	5.00%	$89.34	$102.10
	$337.10	N/C	N/C	1/1/2026	12/31/2026	$100.33	5.00%	$93.81	$107.21
	$353.95	N/C	N/C	1/1/2027	12/31/2027	$105.34	5.00%	$98.50	$112.57
Associate Principal	**$262.08**	N/C	N/C	1/1/2024	12/31/2024	**$78.00**	0.00%	$72.93	$83.87
	$275.18	N/C	N/C	1/1/2025	12/31/2025	$81.90	5.00%	$76.58	$88.06
	$288.94	N/C	N/C	1/1/2026	12/31/2026	$86.00	5.00%	$80.41	$92.47
	$303.39	N/C	N/C	1/1/2027	12/31/2027	$90.29	5.00%	$84.43	$97.09
Sr Project Manager	**$221.76**	N/C	N/C	1/1/2024	12/31/2024	**$66.00**	0.00%	$60.78	$71.71
	$232.84	N/C	N/C	1/1/2025	12/31/2025	$69.30	5.00%	$63.82	$75.30
	$244.49	N/C	N/C	1/1/2026	12/31/2026	$72.77	5.00%	$67.01	$79.06
	$256.71	N/C	N/C	1/1/2027	12/31/2027	$76.40	5.00%	$70.36	$83.01
Project Manager	**$188.16**	N/C	N/C	1/1/2024	12/31/2024	**$56.00**	0.00%	$51.05	$59.56
	$197.57	N/C	N/C	1/1/2025	12/31/2025	$58.80	5.00%	$53.60	$62.54
	$207.44	N/C	N/C	1/1/2026	12/31/2026	$61.74	5.00%	$56.28	$65.66
	$217.82	N/C	N/C	1/1/2027	12/31/2027	$64.83	5.00%	$59.10	$68.95
Sr Associate	**$154.56**	N/C	N/C	1/1/2024	12/31/2024	**$46.00**	0.00%	$42.54	$49.84
	$162.29	N/C	N/C	1/1/2025	12/31/2025	$48.30	5.00%	$44.67	$52.33
	$170.40	N/C	N/C	1/1/2026	12/31/2026	$50.72	5.00%	$46.90	$54.95
	$178.92	N/C	N/C	1/1/2027	12/31/2027	$53.25	5.00%	$49.25	$57.70
Associate (Non-exempt)	**$134.40**	$201.60	$268.80	1/1/2024	12/31/2024	**$40.00**	0.00%	$37.68	$41.33
	$141.12	$211.68	$282.24	1/1/2025	12/31/2025	$42.00	5.00%	$39.56	$43.40
	$148.17	$222.26	$296.35	1/1/2026	12/31/2026	$44.10	5.00%	$41.54	$45.57
	$155.58	$233.37	$311.16	1/1/2027	12/31/2027	$46.31	5.00%	$43.62	$47.84
Coordinator/Assistant (Non-Exempt)	**$117.60**	$176.40	$235.20	1/1/2024	12/31/2024	**$35.00**	0.00%	$34.03	$36.47
	$123.48	$185.22	$246.96	1/1/2025	12/31/2025	$36.75	5.00%	$35.73	$38.29
	$129.65	$194.48	$259.30	1/1/2026	12/31/2026	$38.59	5.00%	$37.52	$40.21
	$136.13	$204.20	$272.27	1/1/2027	12/31/2027	$40.52	5.00%	$39.39	$42.22
Creative Director	**$278.88**	N/C	N/C	1/1/2024	12/31/2024	**$83.00**	0.00%	$79.01	$87.52
	$292.82	N/C	N/C	1/1/2025	12/31/2025	$87.15	5.00%	$82.96	$91.90
	$307.46	N/C	N/C	1/1/2026	12/31/2026	$91.51	5.00%	$87.11	$96.49
	$322.83	N/C	N/C	1/1/2027	12/31/2027	$96.08	5.00%	$91.46	$101.32
Sr. Web/Graphic Designer (Non-exempt)	**$171.36**	N/C	N/C	1/1/2024	12/31/2024	**$51.00**	0.00%	$46.19	$55.91
	$179.93	N/C	N/C	1/1/2025	12/31/2025	$53.55	5.00%	$48.50	$58.71
	$188.92	N/C	N/C	1/1/2026	12/31/2026	$56.23	5.00%	$50.92	$61.64
	$198.37	N/C	N/C	1/1/2027	12/31/2027	$59.04	5.00%	$53.47	$64.72

EXHIBIT 10-H2 COST PROPOSAL PAGE 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant **Circlepoint** ☐ Prime Consultant ☒ Subconsultant ☐ 2nd Tier Subconsultant

Project No: Prof Engineering, Environmental and Construction Support Services Contract No. On-Call Contract Participation Amount $ TBD Date: 6/20/2024

For Combined Rate 61.79% Fringe Benefit % + 143.66% Overhead % + 0.00% General & Administrative = 205.45% Combined ICR %

For Home Office Rate Fringe Benefit % + Overhead % + General & Administrative = = Home Office ICR %

For Field Office Rate Fringe Benefit % + Overhead % + General & Administrative = = Field Office ICR %

							FEE %	=	10%
Accounting Manager	**$305.76**	N/C	N/C	1/1/2024	12/31/2024	**$91.00**	0.00%	$85.09	$97.24
	$321.04	N/C	N/C	1/1/2025	12/31/2025	$95.55	5.00%	$89.34	$102.10
	$337.10	N/C	N/C	1/1/2026	12/31/2026	$100.33	5.00%	$93.81	$107.21
	$353.95	N/C	N/C	1/1/2027	12/31/2027	$105.34	5.00%	$98.50	$112.57
Project Accountant	**$161.28**	N/C	N/C	1/1/2024	12/31/2024	**$48.00**	0.00%	$42.00	$53.48
	$169.34	N/C	N/C	1/1/2025	12/31/2025	$50.40	5.00%	$44.10	$56.15
	$177.81	N/C	N/C	1/1/2026	12/31/2026	$52.92	5.00%	$46.31	$58.96
	$186.70	N/C	N/C	1/1/2027	12/31/2027	$55.57	5.00%	$48.62	$61.91
Administrative Assistant/Support Staff (Non-exempt)	**$144.48**	$216.72	$288.96	1/1/2024	12/31/2024	**$43.00**	0.00%	$39.00	$46.00
	$151.70	$227.55	$303.40	1/1/2025	12/31/2025	$45.15	5.00%	$40.95	$48.30
	$159.29	$238.93	$318.57	1/1/2026	12/31/2026	$47.41	5.00%	$43.00	$50.72
	$167.25	$250.88	$334.50	1/1/2027	12/31/2027	$49.78	5.00%	$45.15	$53.25

NOTES:

1 Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principes. Subconsultants will provide their own cost proposals.

2 The cost proposal format shall not be amended.

3 Billing rate = acutal hourly rate * (1+ICR) * (1+Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.

4 For named employees and key personnelenter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

Docusign Envelope ID: 4BA06C5D-9A49-41D4-8527-1ABDB0E10F5E

AR/WS FEE SCHEDULE 2026 - 2027

CONSULTING CATEGORY	2026 1/1/26 – 12/31/26	2027 1/1/27 – 12/31/27
Principal Consultant	$300.00	$310.00
Managing Consultant	$245.00	$250.00
Consultant III	$185.00	$190.00
Consultant II	$165.00	$170.00
Consultant I	$145.00	$150.00
Right of Way Technician	$115.00	$120.00
Administrative Support	$100.00	$105.00
Appraisal Reports	Lump Sum	Lump Sum
Appraiser III (MAI) (Hourly)	$245.00	$250.00
Appraiser II (Hourly)	$225.00	$230.00
Appraiser I (Hourly)	$195.00	$200.00
Subcontractors	Cost + 10%	Cost + 10%
Preparation for Court Appearances	$300.00	$300.00
Depositions, Court Appearances, Arbitrations / Mediations, Hearings, and Testimony	$400.00	$400.00

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.6**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing execution of the first amendment to the agreement with 4 LEAF, Inc. increasing the not-to-exceed amount from $546,000 to $1,221,000 and extending the term of the agreement from June 30, 2025 to December 31, 2026, to provide continuous construction inspection and administration services for the Water Reclamation Plant (WRP) Primary and Secondary Treatment Improvement Project 2019-31 and the WRP UV Treatment System Replacement Project 2021-28 and as needed on-call construction inspection services.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a first amendment to the engineering services agreement with 4 LEAF, Inc. increasing the not-to-exceed amount from $546,000 to $1,221,000 and extending the term of the agreement from June 30, 2025 to December 31, 2026, to provide continuous construction inspection and administration services for the Water Reclamation Plant (WRP) Primary and Secondary Treatment Improvement Project 2019-31 and the WRP UV Treatment System Replacement Project 2021-28 and as needed on-call construction inspection services.

SUMMARY

4 LEAF, Inc. provides construction inspection services in connection with the WRP Primary and Secondary Treatment Improvements Project 2019-31. The project involves rehabilitation and process improvements to the primary and secondary treatment processes at the City of Livermore (City) Water Reclamation Plant (WRP). Construction activities include demolition, concrete, structural, electrical, and mechanical work at the headworks, influent pump station, odor control treatment system, motor control centers, pre-aeration tanks, primary sedimentation tanks, primary effluent pump station, and a secondary clarifier.

This amendment will add construction inspection services in connection with the WRP Ultraviolet (UV) Treatment System Replacement Project 2021-28. The project involves replacing the disinfection system to increase system reliability, reduce operation and maintenance costs, and meet regulatory compliance

requirements. This amendment extends the term of the agreement from June 30, 2025 to December 31, 2026 and increases the total not-to-exceed amount for construction inspection services from $546,000 to $1,221,000 to accommodate the inspection needs and schedule of the WRP UV Replacement Project.

DISCUSSION

Both the 2012 WRP Master Plan and the 2016 WRP Asset Management Plan identify aging infrastructure within the WRP primary and secondary treatment systems. Process improvements are also recommended in the 2012 WRP Master Plan. The Engineering Division and WRP staff have evaluated and prioritized these recommendations. The WRP Primary & Secondary Treatment Improvements Project involves constructing the highest priority improvements. The project includes replacing the following equipment: influent screw pumps, pre-aeration tank blowers and gates, primary sedimentation tank sludge collection mechanisms, skimmers, and gates, primary effluent pumps, odor control treatment system and equipment covers, secondary clarifier No. 2 sludge collection mechanism, bridge, and gates, and two motor control centers. The construction contract was awarded to the lowest responsible and responsive bidder, C. Overaa & Co., at the July 25, 2022, City Council Meeting.

The WRP produces an average of two million gallons per day of recycled water from wastewater for irrigation, fire suppression, toilet flushing, construction, and industrial operations. This water recycling allows the City to reduce annual potable water use by over 25 percent. The WRP has been using the current UV disinfection system for two decades as the primary means to disinfect recycled water. The WRP UV Treatment System Replacement Project involves replacing the aging system to increase reliability, reduce operations costs, and meet regulatory requirements. The construction contract was awarded to the lowest responsible and responsive bidder, Mountain Cascade, Inc., at the April 15, 2024, City Council Meeting. The location of both projects within the WRP is shown on Attachment 1. Additional inspection services are required to support construction of both these projects.

At the September 12, 2022, City Council Meeting, Council authorized the execution of the Professional Service Agreement with 4 LEAF, Inc. to perform construction inspection services for the WRP Primary and Secondary Improvement Project, which includes the following:

- Pre-Construction Phase Support
    - Reviewing contract documents
    - Attending pre-construction meetings
    - Assisting with submittal and request for information reviews
    - Documenting pre-construction conditions
- Construction Phase Support
    - Constructability reviews, quantity takeoffs, and cost estimates
    - Onsite monitoring and field inspections
    - Contract management support
- Post-Construction Phase Support
    - Preparing the punch list and performing final inspections
    - Assisting with collection and review of closeout documents

Staff negotiated the attached first amendment to the professional services agreement to include similar construction inspection services for the WRP UV Treatment System Replacement Project, increasing the not-to-exceed amount from $546,000 to $1,221,000, and extending the term from June 30, 2025 to December 31, 2026. This agreement covers full-time construction inspection services throughout the duration of the two projects. In the event that 4 LEAF inspectors have additional unused capacity under

the contract, their services may be utilized for other construction inspection support activities, with their time billed to those individual projects.

FISCAL AND ADMINISTRATIVE IMPACTS

Work performed for the WRP Primary and Secondary Improvement Project under this amendment is covered by the budget for the WRP Primary and Secondary Treatment Improvements Project 2019-31 in the FY 2023-28 Capital Improvement Plan and additional supplemental appropriations that were approved by the City Council on July 8, 2024. Work performed for the UV Treatment System Replacement Project under this amendment is included in the budget for WRP UV Treatment System Replacement Project 2021-28 in the FY 2023-28 Capital Improvement Plan.

Both projects include funding from Fund 622 (Sewer Replacement Fees) and Fund 623 (Sewer Connection Fees). Fund 642 (Water Replacement Fund) also provides additional funding for the UV Treatment System Replacement Project.

COMMUNITY PILLAR

1: A Safe Community that Thrives

GOAL

11: Operate and maintain municipal water systems that provide safe, efficient delivery of potable and recycled water, collect and treat wastewater, and comply with all federal, state, and local regulations.

ATTACHMENTS

1. Site Plan
2. Resolution
3. Exhibit A - First Amendment

Prepared by: Dennis Aberion
Senior Engineering Technician

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

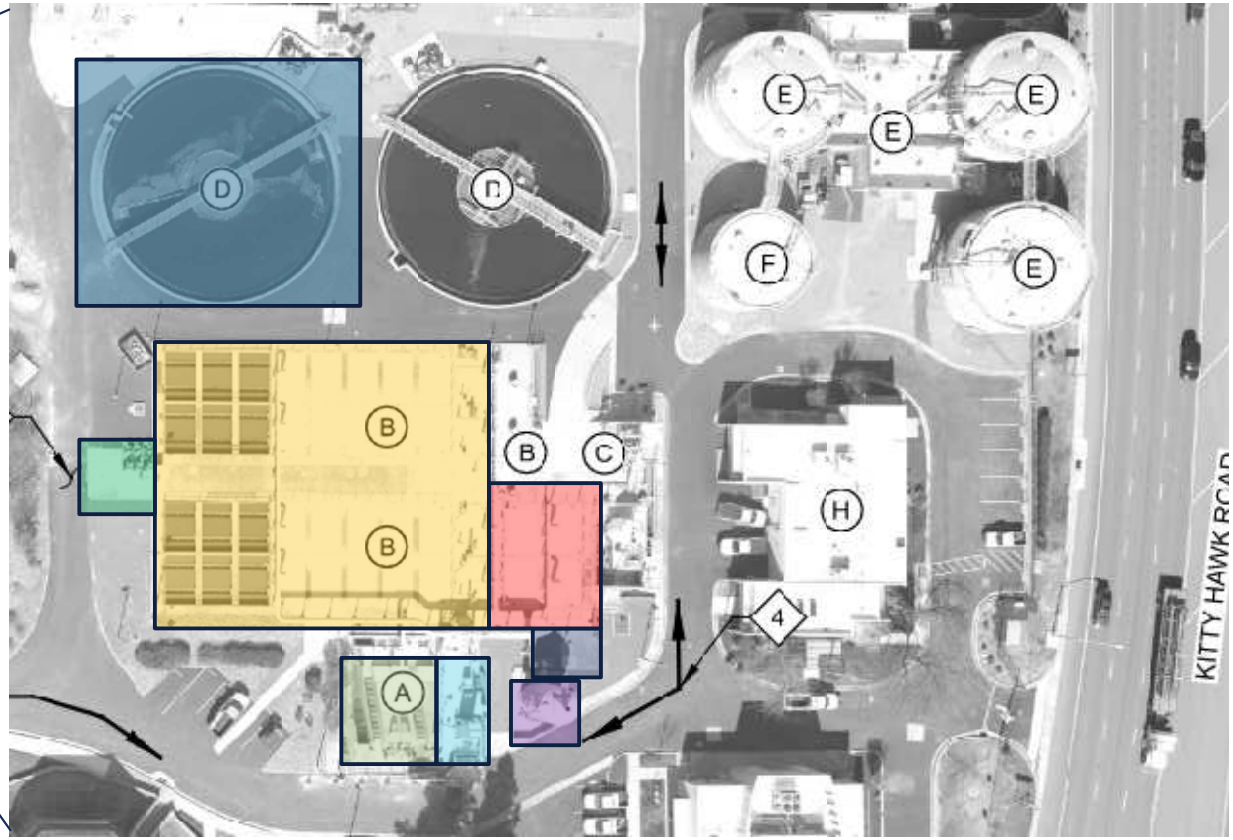
Tina Olson
Administrative Services Director

SITE PLAN WITH SCOPE ELEMENTS HIGHLIGHTED

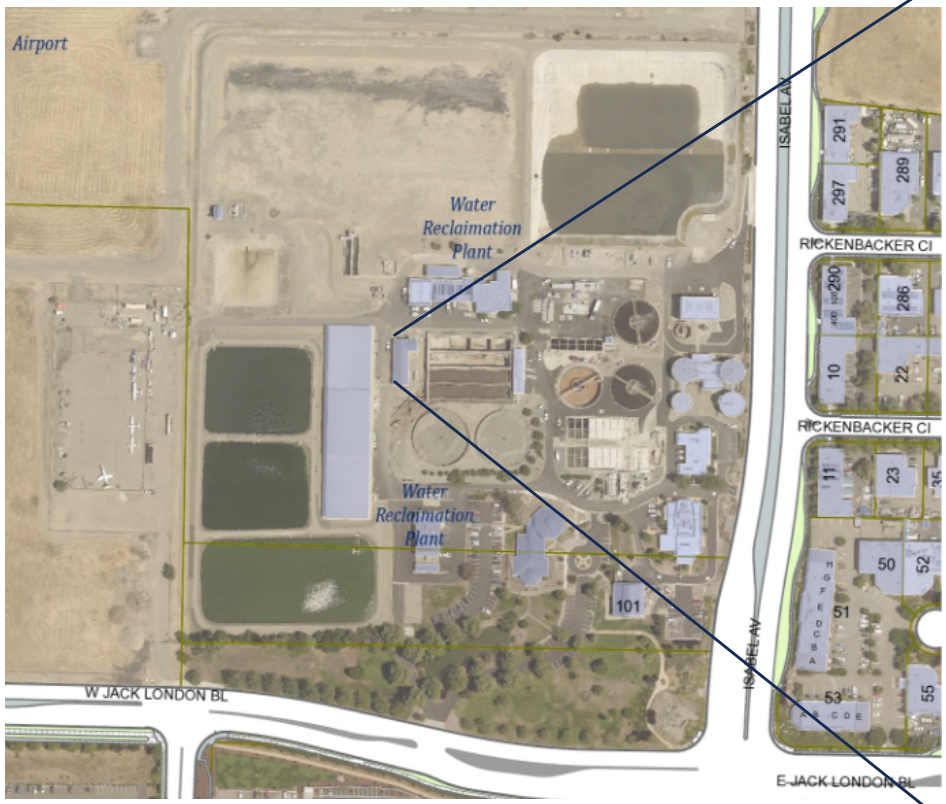
VICINITY MAP

- Headworks - Influent Bypass Manhole
- Headworks - Screening Facility
- Headworks - Influent Pump Station
- Pre-Aeration Tanks (PATs)
- Primary Sedimentation Tanks (PSTs)
- Primary Effluent Pump Station (PEPS)
- Odor Control Tower
- Secondary Clarifier No. 2

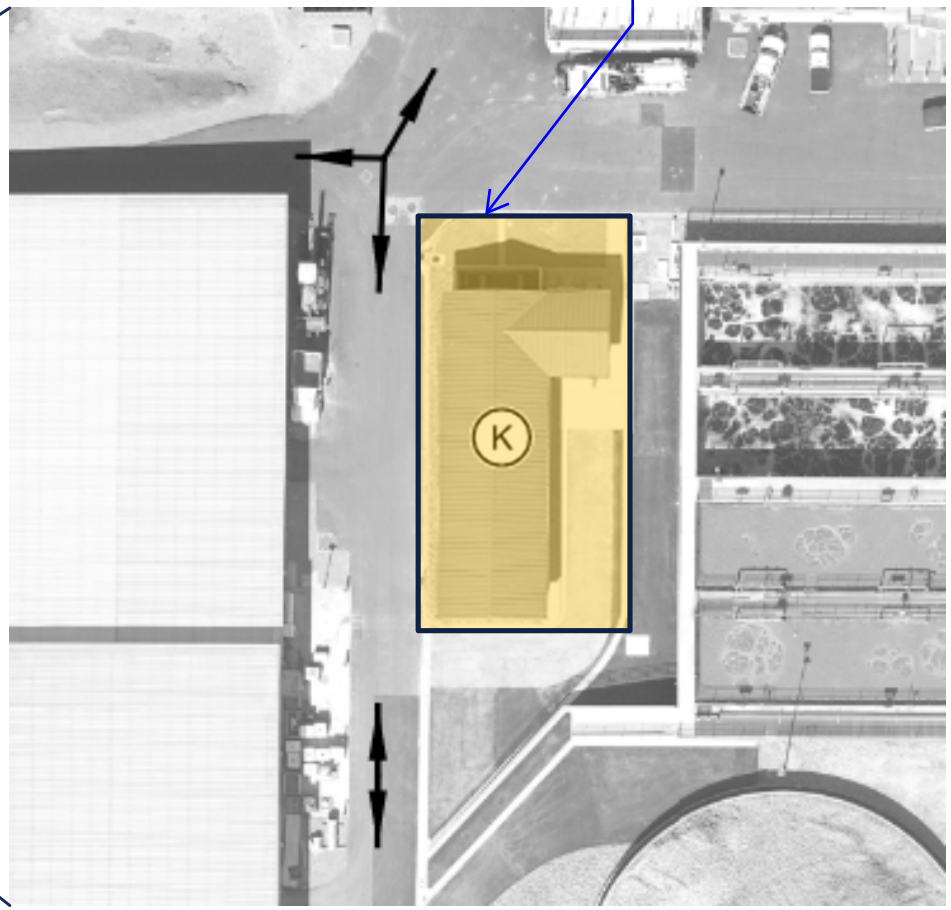
SITE PLAN



WRP UV TREATMENT SYSTEM REPLACEMENT PROJECT
CIP 2021-28
PROJECT LOCATION



VICINITY MAP



SITE PLAN

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE AGREEMENT WITH 4LEAF, INC. INCREASING THE NOT-TO-EXCEED AMOUNT FROM $546,000 TO $1,221,000, AND EXTENDING THE TERM FROM JUNE 30, 2025 TO DECEMBER 31, 2026 TO PROVIDE CONTINUOUS CONSTRUCTION INSPECTION AND ADMINISTRATION SERVICES FOR THE WATER RECLAMATION PLANT (WRP), AND ADD AS NEEDED ON-CALL CONSTRUCTION INSPECTION SERVICES FOR THE UV TREATMENT SYSTEM REPLACEMENT

(PRIMARY AND SECONDARY TREATMENT PROJECT 2019-31, WRP UV TREATMENT SYSTEM REPLACEMENT PROJECT 2021-28)

4LEAF, Inc. is providing construction inspection services in connection with the Water Reclamation Plant Primary and Secondary Treatment Improvements Project 2019-31. The project involves rehabilitation and process improvements to the primary and secondary treatment processes at the City of Livermore (City) Water Reclamation Plant (WRP). Construction activities include demolition, concrete, structural, electrical, and mechanical work at the headworks, influent pump station, odor control treatment system, motor control centers, pre-aeration tanks, primary sedimentation tanks, primary effluent pump station, and a secondary clarifier.

On September 12, 2022, City Council authorized the execution of the Professional Services Agreement with 4LEAF, Inc. to perform construction inspection services for the WRP Primary and Secondary Improvement Project 2019-31.

On April 15, 2024, City Council awarded the contract for construction of the WRP Ultraviolet (UV) Treatment System Replacement Project to Mountain Cascade, Inc. This project involves replacing the disinfection system to increase system reliability, reduce operation and maintenance costs, and meet regulatory compliance requirements.

This amendment will provide continuous construction inspection services for the WRP Primary and Secondary Improvement Project 2019-31 and add construction inspection services for the WRP Ultraviolet (UV) Treatment System Replacement Project 2021-28.

In addition, this amendment will extend the term of the agreement from June 30, 2025 to December 31, 2026, and increase the total not-to-exceed amount for construction inspection services from $546,000 to $1,221,000 to accommodate the inspection needs and schedule of the added WRP UV Replacement Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager to execute the First Amendment to the Engineering Services Agreement with 4LEAF, Inc., attached hereto as Exhibit

A, increasing the not-to-exceed amount from $546,000 to $1,221,000 and extending the term of the agreement from June 30, 2025 to December 31, 2026, to provide continuous construction inspection and administration services for the WRP Primary and Secondary Treatment Project 2019-31 and the WRP UV Treatment System Replacement Project 2021-28, and additional as needed on-call construction inspection services.

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – First Amendment – 4LEAF, Inc.

EXHIBIT A

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST AMENDMENT is made and entered into this ____ day of _____, 2024, by and between the City of Livermore ("City"), a municipal corporation, and 4LEAF, Inc. ("Consultant"), a California C corporation.

RECITALS

On September 21, 2022, City and Consultant entered into an agreement for Consultant to provide professional construction inspection and administration services, and as needed on-call inspection construction consulting services to City ("Original Agreement"). Section 21 of the Original Agreement requires that any modifications to it must be in writing and signed by the parties.

City and Consultant desire to amend the Original Agreement to increase total compensation from $546,000 to **$1,221,000**, and extend the termination date from June 30, 2025 to December 31, 2026. This is the first amendment to the Original Agreement.

AGREEMENT

NOW, THEREFORE, City and Consultant hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. The Original Agreement is amended as follows:

   A. Section 3 of the Original Agreement is amended to read as follows: **Description of Services.** Consultant shall provide the following professional services as more particularly set forth in Exhibit "A" to the Original Agreement and Exhibit "A-1" to the First Amendment (collectively "the Services"):Construction inspections and administrative services for the WRP Primary and Secondary Treatment Improvements, Project 2019-31, WRP UV Treatment System Replacement, Project 2021-28, and as needed on-call inspection construction consulting services for various development and capital improvement projects.

   B. Section 4(f) of the Original Agreement is amended to read as follows: Coordinate the Services with Dennis Aberion ("Project Manager"), or such other person designated as the Project Manager by City;

   C. Section 5(a) of the Original Agreement is amended to read as follows: **Compensation and Payment.**

      a. The total compensation payable by the City to Consultant for the Services SHALL NOT EXCEED the sum of **$1,221,000** ("not to exceed amount"). City shall compensate Consultant for the Services rendered at the hourly rates, task amounts or travel expenses set forth in Exhibit

"A" to the Original Agreement and Exhibit "A-1" to the First Amendment up to the not-to-exceed amount. Except as provided in the body of this Agreement, the hourly rates, task amounts or travel expenses are intended to be Consultant's only compensation for the Services and is inclusive of all costs or labor, licensing, permitting, overhead and administrative costs, and employees to provide the Services.

1. The compensation payable by the City to Consultant for the Services required by Exhibit A to the Original Agreement SHALL NOT EXCEED $546,000.00.

2. The compensation payable by the City to Consultant for the Services required by Exhibit A-1 to the First Amendment SHALL NOT EXCEED $675,000.00.

D. Section 6 of the Original Agreement is amended to read as follows:
Term. The term of this Agreement commences on September 13, 2022, and terminates upon the completion of Services or December 31, 2026, whichever occurs first.

E. Section 22 of the Original Agreement is amended to read as follows:
Notice. Notices under this Agreement must be delivered to the addresses below by deposit in the United States mail or by overnight delivery service, with postage prepaid and delivery confirmation:

TO CITY: Attention: Dennis Aberion
1052 S Livermore Avenue
Livermore, CA 94550

TO CONSULTANT: Attention: Gene Barry, Vice President
4LEAF, Inc.
2126 Rheem Drive
Pleasanton, CA 94588

2. These amendments are prospective and only apply to the Services rendered by Consultant after the execution of this Amendment. Unless otherwise stated herein, this Amendment does not relieve the parties of the terms and conditions of the Original Agreement as written and in effect at the time the Services were rendered.

3. Except as amended above, the Original Agreement remains in full force and effect.

EXHIBIT A

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement effective on the date first written above.

CONSULTANT:

DocuSigned by:
Gene Barry
F39C2ACA1C3D430...
Gene Barry
Vice President

Dated:

8/1/2024 | 9:28 AM PDT

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

DocuSigned by:
Tara Mazzanti
B099F657 13704E2...
Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
A5F7D34BB6A748A...
Risk Manager/Analyst

Attachment:
Exhibit A-1

4LEAF Fee Schedule

2024 - 2026 Construction Inspection Services for the City of Livermore Primary and Secondary Treatment Plant Upgrades Project and Various CIP Projects

Program Management Services*

Staff Designation	2024	2025	2026
Principal-in-Charge / Project Manager	$203/hr	$209/hr	$215/hr

Construction Management / Inspection Services*

Staff Designation	2024	2025	2026
Construction Manager	$180.35/hr	$185.76/hr	$191.33/hr
Public Works Inspector (Regular Time)**	$161.26/hr	$166.10/hr	$171.08/hr
Public Works Inspector (Night Time)**	$181.41/hr	$186.86/hr	$192.47/hr
Public Works Inspector (Overtime)**	$217.70/hr	$224.23/hr	$230.96/hr
Public Works Inspector (Overtime)**	$298.33/hr	$307.28/hr	$316.50/hr
Public Works Inspector (Overtime)**	$378.95/hr	$390.32/hr	$402.03/hr
Public Works Inspector Apprentice	$94 - $140/hr	$97 - $146/hr	$99.91 - $144.20/hr

All Fees shown include Annual Escalation of 3% starting on January 1, 2025.

BASIS OF CHARGES

A. Rates shown assume projects under this on-call contract will require compliance with California Prevailing Wage rate requirements and assumes the Client may be filing a PWC-100 Form to the California Department of Industrial Relations (DIR) for some of the projects under the on-call contract.

B. Rates for prevailing wage categories are subject to annual escalations in accordance with the bi-annual wage determinations from the California DIR. Rates based on California DIR's wage determinations dated February 2022.

C. Per the requirements being enforced under SB 854 and because it is assumed that a PWC-100 Form will be filed by the Client to the CA DIR for each project, 4LEAF is required to notify an authorized Apprenticeship Committee through submittal of a DAS-140 form. We are then required to make an official request to an authorized Apprenticeship Committee for an apprentice by submitting a DAS-142 form. We are not assured the apprenticeship committee will be able to provide a suitable / qualified apprentice for the project. Per the apprenticeship requirements, the hours worked by the apprentice must be in a ratio of 1:5 for apprentice to journeyman hours. 4LEAF will not know the labor classification of the Public Works Apprentice until an Apprentice is dispatched to the site; therefore, the rates for the five Periods listed under the California DIR's Wage determination for Building Construction Inspector issued February 2022 were used to determine the range of Calendar Year 2022 hourly rates for Public Works Inspector Apprentice.

D. All invoicing will be submitted monthly.

E. Overtime and Premium time will be charged as follows:
- *Night Time (work begun after 4PM or before 5AM)* — *1.125 x hourly rate***
- *Overtime (over 8 hour M-F or Saturdays)* — *1.35 x hourly rate***
- *Overtime (over 8 hours Sat or 1st 8 hour Sun)* — *1.85 x hourly rate***
- *Overtime (over 8 hours Sun or Holidays)* — *2.35 x hourly rate***

F. All work with less than 8 hours rest between shifts will be charged the appropriate overtime rate.

G. Daily commute-related travel time will not be billed to the Client. Project-related mileage for inspections will be billed at the allowable IRS Rate plus 20%. Mileage reimbursements shall be recorded from the location designated by the Client to project sites. Requests for reimbursements for lodging, food and other miscellaneous per diem items shall be approved in writing by Client prior to beginning of work.

H. In accordance with California's Meal Break and Rest Break Law requirements, Client will be billed one (1) additional hour per day at the regular rate for each missed meal or rest break due to Client-directed tasks or requirements. Client should allow 4LEAF's non-exempt, hourly employees the opportunity to take their entitled rest and meal breaks during each work shift.

I. If 4LEAF is requested or otherwise required to conform to Client's alternative work week schedule ("AWW"), Client hereby agrees to compensate or reimburse 4LEAF for all overtime paid to its employees who work an AWW. - If 4LEAF's affected

employment group approves an AWW election and the same is registered, the overtime compensation/reimbursement shall not be required.

J. Payment due on receipt. All payments over 30 days will be assessed a 1.5% interest charge.
K. Client shall pay attorneys' fees, or other costs incurred in collecting delinquent amounts.
L. Client agrees that 4LEAF's liability will be limited to the value of services provided.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.7**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing execution of an agreement with HMH Engineers, in an amount not-to-exceed $361,000 and a term ending December 31, 2026, to provide engineering services for Portola Avenue Slide Repair Project S202300P, Subtask S230042C, Federal Project No. ER-15J7(107).

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute an agreement with HMH Engineers, in an amount not-to-exceed $361,000 and a term ending December 31, 2026, to provide engineering services for Portola Avenue Slide Repair Project S202300P, Subtask S230042C, Federal Project No. ER-15J7(107).

SUMMARY

The Portola Avenue Slide Repair involves reconstructing the slope on the north side of Portola Avenue, between Cayetano and the Portola Ave Overpass with engineered fill material, subdrain, and surface drainage systems. Attachment 1 shows the location of the slide. This agreement with HMH Engineers, in an amount not-to-exceed $361,000, is to provide engineering services for the slide repair and includes field reconnaissance, site survey, geotechnical engineering investigation, environmental clearance, permitting, design, and construction support.

DISCUSSION

During the December 2022/January 2023 storm events in the City of Livermore (City), large volumes of surface water runoff from the grassland pastures along the north side of Portola Avenue, between Campus Hill Drive and the Portola Ave Overpass created several slope failures spanning over 1,000 feet. The sidewalk as well as one westbound lane on Portola Avenue was covered with an approximately 2-feet depth of soil.

The City's maintenance staff cleared the soil from the roadway and sidewalk and restored paths of travel for motorists, bicyclists, and pedestrians. Excess soil remained on portions of the slope and adjacent to the sidewalk. In July 2023, the City entered into a general services agreement with GradeTech, Inc. to

remove the remaining soil and install erosion control measures, such as fiber rolls and geotextile filter fabric, to protect the slope until permanent repairs can be made.

In fall 2023, City staff issued a request for proposal for the Portola Avenue Slide Repair. HMH Engineers was selected as the most qualified candidate for the project after internal evaluations of the proposals received. HMH Engineers has worked for the City on several capital improvement projects to the City's satisfaction. The total fee of $361,000 is approximately 18% of the total estimated construction cost of $2,003,000 which is typical for design, environmental, and construction support services of this scale.

FISCAL AND ADMINISTRATIVE IMPACTS

This project is funded under the Federal Highway Administration's (FHWA) Emergency Relief (ER) Program. The FHWA ER Program is administered by the California Department of Transportation (Caltrans). Caltrans has given the authorization to proceed with design and approved a budget of $2,779,500. The FHWA ER Program will reimburse up to 88.53% of the approved budget, and the City's local match will cover $319,000 of the total project cost. The approved budget includes implementing temporary erosion control measures, and the design and construction of the permanent slide repair.

The work for the Portola Avenue Slide Repair Project is included in S202300P, subtask S230042C, Federal Project No. ER-15J7(107) and is included in the 2023-28 Capital Improvement Plan which covers the cost of this agreement; therefore, no additional appropriations are necessary.

COMMUNITY PILLAR

5: A City That Works

GOAL

14: Develop, operate, and maintain the City's infrastructure

ATTACHMENTS

1. Location Map
2. Resolution
3. Exhibit A - Agreement

Prepared by: Leon Taing
Senior Civil Engineer

Approved by:

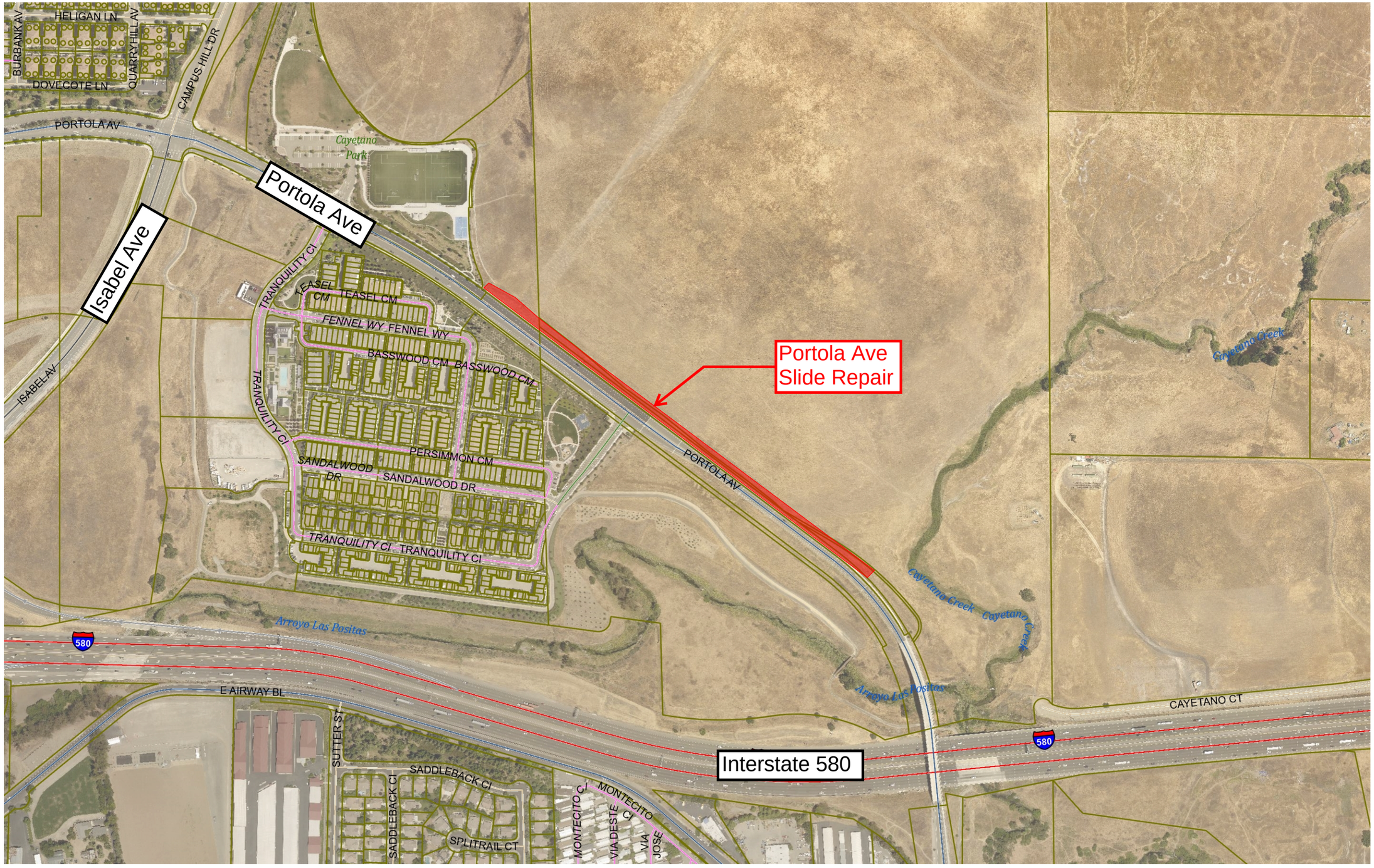
Marianna Marysheva
City Manager

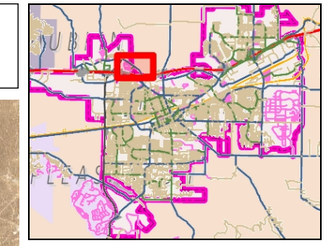
Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE CALIFORNIA

City of Livermore





Legend

- Major Streets (> 62,500)
- Collector Street Names (2500-
- Local Street Names (2500-125
- Private Street Names (2500-8(
- Golf Labels
- Creeks
- Public Facilities (4500-100000)
- Park Names (4500-100,000)
- School Names (4500-24,000)
- Streets
  - Interstate
  - Other Freeway or Expressway
  - Arterial
  - Collector
  - Local
  - Ramp
- Private Streets
- Railroad
- Parcels

1: 4,800

800.0 0 400.00 800.0 Feet

NAD_1983_2011_StatePlane_California_III_FIPS_0403_Ft_US
Information Technologies, GIS Division, City of Livermore

Date Printed: 7/26/2024

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. The City of Livermore is not responsible for misuse or errors or omissions on this map. All information should be confirmed.

Notes

Attachment 1 - Location Map

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH HMH ENGINEERS TO PROVIDE ENGINEERING SERVICES FOR THE PORTOLA AVENUE SLIDE REPAIR, IN AN AMOUNT NOT-TO-EXCEED $361,000 AND A TERM ENDING DECEMBER 31, 2026

(PORTOLA AVENUE SLIDE REPAIR PROJECT S202300P, SUBTASK S230042C, FEDERAL PROJECT NO. ER-15J7(107))

During the December 2022/January 2023 storm events in the City of Livermore, large volumes of surface water runoff from the grassland pastures along the north side of Portola Avenue, between Campus Hill Drive and the Portola Avenue Overpass created several slope failures spanning over 1,000 feet. The sidewalk, as well as one westbound lane on Portola Avenue, was covered with soil approximately two feet deep. The Portola Avenue Slide Repair involves reconstructing the slope on the north side of Portola Avenue, between Isabel Avenue and I-580 interchange with engineered fill material, subdrain and surface drainage systems.

This agreement with HMH Engineers, in an amount not-to-exceed $361,000, is to provide engineering services that includes field reconnaissance, site survey, geotechnical engineering investigation, environmental clearance, permitting, design, and construction support.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager to execute an engineering services agreement with HMH Engineers, attached hereto as Exhibit A, in an amount not-to-exceed $361,000 and a term ending December 31, 2026, to provide engineering services for Portola Avenue Slide Repair Project S202300P, Subtask S230042C, Federal Project No. ER-15J7(107).

2. Authorizes the City Manager to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – Agreement with HMH Engineers

EXHIBIT A

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2024, ("Effective Date") by and between the City of Livermore, a municipal corporation ("City"), and HMH Engineers, a California Corporation ("Consultant").

RECITALS

City requires engineering services to complete Preliminary Engineering, provide Environmental Document & Permitting, and prepare Plans, Specifications and Estimate for the Portola Ave Slide Repair, City Project No. S202300P, Subtask S230042C, Federal Project No. ER-15J7(107).

Consultant warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Consultant acknowledges City has relied upon these warranties to retain Consultant.

AGREEMENT

NOW, THEREFORE, City and Consultant hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. Retention as Consultant. City hereby retains Consultant, and Consultant hereby accepts such engagement, to perform the services described in Section 3 below subject to the terms and conditions in this Agreement.

2. Relationship of Parties – Independent Contractors. The relationship of the parties shall be that of independent contractors. Consultant and its employees are not City officers or employees. Consultant is responsible for the supervision and management of its employees, including any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the delivery of the services contemplated by this Agreement.

3. Description of Services. Consultant shall provide engineering services to complete Preliminary Engineering, provide Environmental Document & Permitting, and prepare Plans, Specifications and Estimate in conjunction with the Portola Ave Slide Repair, City Project No. S202300P, Subtask S230042C, Federal Project No. ER-15J7(107) ("Project"), as more particularly set forth in Exhibit "A" (collectively "the Services").

4. Consultant Responsibilities. Consultant shall:

(a) Consultant shall investigate and verify all existing site conditions for the Project and take them into account when preparing the Project's design even when "As Built" or "Record Drawings" are used by Consultant.

(b) Consultant shall review and respond to construction submittals and shop drawings within fourteen (14) calendar days following their receipt by Consultant; requests for information with comments noted thereon shall be reviewed and responded to within seven (7) working days following their receipt by the Consultant.

(c) Diligently perform the Services in a manner commensurate with industry, professional, and community standards;

(d) Provide the resources necessary to complete the Services in a timely manner;

(e) Obtain a business license from the City of Livermore, and keep it in effect for the term of this Agreement;

(f) Obtain and keep in effect all necessary licenses, permits, qualifications, insurance, and approvals legally and professionally required for Consultant to practice its profession and to provide the Services;

(g) Comply with all laws in effect that are related to Consultant and the Services;

(h) Coordinate the Services with Leon Taing ("Project Manager"), or such other person designated as the Project Manager by City;

(i) Be available to the Project Manager, and other parties referred to Consultant by the Project Manager, to answer questions or inquiries related to the Services;

(j) Only invoice City for the Services rendered. Consultant's invoice shall be in writing and describe the Services performed for the payment requested. Consultant shall not submit an invoice to City more frequently than once a month;

(k) Keep and maintain invoices and records related to the Services in an organized manner. At a minimum, the records must be kept for at least 3 years from the date of final payment to Consultant and must include time sheets, work progress reports, and other documentation to adequately explain all the Services invoiced for payment. Consultant shall make the invoices and records immediately available to City upon delivery of a written request to examine, audit, or copy them at City's place of business during normal business hours. Consultant shall give City 30 calendar-days' written notice prior to destroying the invoices and records, and allow City an opportunity to take possession. If City wants them, Consultant and City shall coordinate their delivery to City in the most efficient manner possible;

(l) Prepare and submit a written report to the Project Manager, with each invoice and when requested in writing by the Project Manager, that identifies the Services completed and in progress, the charges incurred to date, and the anticipated cost to complete the remaining Services; and,

(m) Consultant shall correct, at its own expense, all errors in the Services. Should Consultant fail to make such correction in a timely manner, City may make the correction and charge the cost thereof to Consultant.

(n) Consultant's services provided pursuant to this Agreement shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

5. Compensation and Payment.

(a) The total compensation payable by City to Consultant for the Services **SHALL NOT EXCEED** the sum of $361,000.00 ("not-to-exceed amount"). City shall compensate Consultant for the Services rendered at the hourly rates or task amounts set forth in Exhibit "A" up to the not-to-exceed amount. Except as provided in the body of this Agreement, the hourly rates or task amounts are intended to be Consultant's only compensation for the Services and is inclusive of all costs of labor, licensing, permitting, travel expenses, overhead and administrative costs, and any-and-all other costs, expenses, and charges incurred by Consultant, its agents, and employees to provide the Services.

(b) City shall pay Consultant no later than 30 days after City receives a written invoice from Consultant and verifies the Services were performed for the payment requested.

6. Term. The term of this Agreement commences on the Effective Date and terminates upon the depletion of funds or December 31, 2026, whichever occurs first.

7. Termination by City. City may terminate any portion or all of the Services by giving Consultant at least 30 calendar-days written notice. Upon receipt of a termination notice, Consultant shall immediately stop all work in progress on the Services except where necessary to preserve the benefit of the work, and assemble the work on the Services for delivery to City on the termination date. All compensation for Services performed prior to the termination date shall be payable to Consultant in accordance with Section 5.

8. Ownership of Documents. All drawings, designs, data, photographs, reports and any and every other types of items prepared or obtained by Consultant in the performance of the Services under this Agreement shall be the property of the City and Consultant shall deliver them to City upon demand. The Consultant shall assume no responsibility for the unintended use by others of any such documents, information, or materials on project(s) which are not related to the scope of the Services described under this Agreement.

9. Copyright and Right of Use. All items created by Consultant for City under this Agreement are works made for hire, and Consultant shall give City the copyright and all intellectual property rights to all items developed, prepared, and delivered as part of the Services. Consultant agrees that all aspects of the Services and items created thereby will be original works of creation and will not use, in whole or in part, any work created by

any other party, except when expressly disclosed by Consultant to City and Consultant obtains a license to such items for the benefit of City. All licenses must be perpetual, world-wide, non-exclusive, and royalty free sufficient in scope to permit City's full use and enjoyment of its ownership rights in the items created by the Services.

10. Confidentiality. Consultant shall not disclose any confidential or proprietary information received from City to anyone except Consultant's employees who require access to the information to perform the Services. This obligation shall survive termination and remain in full force and effect until the information, and any copies thereof, are destroyed or returned to City.

11. Indemnity and Defense.

(a) Definitions. When used in this "Indemnity and Defense" section, these terms have the following meaning:

(1) "City," means the City, its elected officials, officers, directors, employees, agents, or designated volunteers.

(2) "Design Professional," means licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors and the business entities which offer such services in accordance with the provisions of the California Business and Professions Code listed at California Civil Code, section 2782.8, upon which Consultant relies to meet the obligations of, or perform work pursuant to, this Agreement.

(3) "Non-Design Professional," means any person or entity upon which Consultant relies to meet the obligations of, or perform work pursuant to, this Agreement who or which is not a Design Professional.

(4) "Loss," or "Losses," mean all claim for or actual loss, liability, damage, cost, and expense including but not limited to reasonable attorney, consultant and expert fees, and court costs arising out of or in connection with Consultant's obligation or work to perform this Agreement including the City's active or passive negligence, except for such Loss arising from the sole negligence or willful misconduct of the City.

(b) Non-Design Professional Services. Consultant shall defend, indemnify, and hold harmless the City from and against any alleged Loss arising out of, pertaining to, or relating to, the services of any Non-Design Professional.

(c) Design Professional Services. For an alleged Loss that solely arises out of, pertains to, or relates to, the services of a Design Professional, Consultant shall defend and indemnify the City solely for such Losses due to the negligence, recklessness, or willful misconduct of the Design Professional(s) as allowed by application of California law, including California Civil Code, section 2782.8, as written on the effective date of this Agreement and according to applicable judicial interpretations.

(d) Mixed Services. If an alleged Loss arises out of, pertains to, or relates to both the services of a Design Professional and a Non-Design Professional, Consultant shall defend City against the claimed Loss and shall indemnify and hold harmless City from all Losses alleged against the Non-Design Professional combined with any Losses allegedly due to the negligence, recklessness, or willful misconduct of any Design Professional.

12. Insurance. Consultant shall procure and maintain insurance during the term of this Agreement in the amounts and under the terms set forth in Exhibit "B" against claims that may arise from or in connection with this Agreement and performance of the Services. Upon reasonable written notice, Consultant shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager.

13. Acceptance of Final Payment. Consultant's acceptance of final payment will release City from any-and-all claims and liabilities for compensation under this Agreement.

14. Acceptance of Work. City's acceptance of, or payment to Consultant for, the Services does not release Consultant from its responsibility for the accuracy, completeness, or competency of the Services, nor do the actions constitute an assumption of Consultant's responsibility or liability by City for any defect or error in the Services.

15. Conflict of Interest. Consultant represents that no City employee or official has a financial interest in Consultant. Consultant shall not offer, encourage, or accept any financial interest in any part of Consultant's business by or from a City employee or official during the term of this Agreement or as a result of being awarded this Agreement. If any of the Services are paid by reimbursement from an agreement between City and a private party, Consultant represents that it has not performed any work for that private party during the 12-month period prior to the execution of this Agreement, and that it shall not negotiate, offer or accept any contract for services from that party during the term of this Agreement.

16. Economic Disclosure. Consultant shall comply with City's local conflict of interest code and the Political Reform Act, and prepare and file an economic disclosure statement if the Services involve making, or participation in making, decisions which may have a material effect on the Consultants' financial interest. While it is Consultant's sole responsibility to evaluate its conflicts of interest, the Consultant nevertheless agrees to prepare and file an economic disclosure statement if requested by City.

17. Non-Exclusive Agreement. This is a non-exclusive agreement. City reserves the right to provide, and to retain other consultants to provide, services that are the same or similar to the Services described in this Agreement.

18. No Assignment. Consultant shall not assign or subcontract any of the Services without City's prior written consent. For the purposes of this section, a change of fifty-percent or more in the ownership or control of Consultant constitutes an assignment.

19. Entire Agreement; Modification. This Agreement supersedes all other agreements, whether oral or written, between the parties with respect to the Services. Any modification to this Agreement must be in writing and signed by both parties. In the event the original of this Agreement is lost or destroyed, an archival copy maintained by City can be used in place of the original for all purposes with the same effect as if it was the original.

20. Remedies. All remedies permitted or available under this Agreement, or at law or in equity, are cumulative and alternative, and the invocation of a right or remedy will not be construed to waive or elect a remedy with respect to any other available right or remedy. As a condition precedent to commencing legal action involving a claim or dispute against City arising from this Agreement, the Consultant must present a written claim to City in accordance with Chapter 3.42 of the Livermore Municipal Code.

21. Construction of Language. The terms and conditions in this Agreement have been arrived at through negotiation and each party had a full and fair opportunity to review and revise this Agreement with legal counsel. Any ambiguity in this Agreement will not be resolved against either party as the drafting party. In the event of an inconsistency or conflict between the language in the body of the Agreement and an attachment hereto, the language in the body of the Agreement controls.

22. Notice. Notices under this Agreement must be delivered to the addresses below by deposit in the United States mail or by overnight delivery service, with postage prepaid and delivery confirmation:

TO CITY: Attention: City Engineer
CC: Project Manager
City Administration Building
City of Livermore
1052 S. Livermore Avenue
Livermore, California 94550

TO CONSULTANT: Attention: Jon Coacciotti
Principal
HMH Engineers
1570 Oakland Road
San Jose, CA 95131

23. Waiver. Failure to insist upon the strict performance of any term or conditions in this Agreement, no matter how long the failure continues, is not a waiver of the term or condition and does not bar the right to subsequently demand strict performance. To be effective, a waiver must be in writing and signed by the non-breaching party.

24. Severability. If a court of competent jurisdiction determines a provision in this Agreement is invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired in any way.

25. **Counterparts**. This Agreement may be executed in counterpart by delivering a facsimile or secure electronic copy of the signed agreement to the other party, followed by delivery of the original documents bearing the original signatures. However, failure to deliver the original documents does not affect the enforceability of this Agreement.

26. **Governing Law.** This Agreement is governed by California law. Consultant consents to the exclusive jurisdiction and venue of the state and federal courts of Alameda County, California.

****

Signatures and Attachment List on the Next Page

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement, effective on the date first written above.

CONSULTANT:

DocuSigned by:

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By: Jon Cacciotti
Title: Principal

Dated:

8/6/2024 | 4:25 PM PDT

CITY OF LIVERMORE:

Marianna Marysheva
City Manager

Dated:

APPROVED AS TO FORM:

DocuSigned by:

Tara Mazzanti

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Deputy/Assistant/City Attorney

APPROVED AS INSURANCE:

DocuSigned by:

Jas Sidhu

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Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements
Exhibit C - Milestone Schedule, Organization Chart
Exhibit D - Federal Provisions
Exhibit E - Caltrans LAPM Ex. 10-O1 & 10-O2, DBE Commitment Forms

EXHIBIT A

SCOPE OF WORK

For

PORTOLA AVENUE SLIDE REPAIR
CITY PROJECT NO. S202300P, SUBTASK S230042C
FEDERAL PROJECT No. ER-15J7(107)
DAF No. LTP-LVMR-001-0, DISASTER No. CA23-1

Understanding

HMH Engineers submitted a proposal to the City of Livermore to address a series of recent failures of the slope along the North side of Portola Avenue south of Isabel Avenue in the City of Livermore, Alameda County. Slides along the north side of the roadside occur at various locations along an approximately 1,600-foot section of Portola Avenue. The proposed project would remove slide material, rebuild the roadside slope with underdrainage, and install drainage above the slope to intercept surface flow. The City is seeking funding for the Project from the Federal Highway Administration (FHWA) and this scope assumes that the Caltrans Local Assistance will be the National Environmental Policy Act (NEPA) lead agency for the Project. The following scope of services is developed to provide design documents and environmental clearance and permitting for the permanent repairs to address the stability of the slope.

Task 1 – Project Management

Project management will include coordination and review of work prepared by project staff and subconsultants; coordination with client and stakeholders; preparation of baseline line and progress schedules and monitoring of the schedule; monitoring of project budget; preparation of monthly project reports and invoices; project compliance review with current codes and standards and local and regional programs, etc.

Consultant will coordinate with the City of Livermore, utility companies, businesses, and other internal and external stakeholders to identify project needs, goals, and constraints.

This task will include public outreach planning, project management, Quality assurance and quality control (QA/QC) reviews, preparing progress schedules, and conducting regular coordination and progress meetings with stakeholders.

As a minimum consultant will include a kickoff meeting and monthly progress meetings with the City and stakeholders to discuss and review the project during its critical milestones.

Deliverables:

- ✓ Meeting agenda, meeting minutes and progress schedules
- ✓ Monthly progress invoices with budget summary, progress report and progress schedule
- ✓ Project factsheets.
- ✓ Quality assurance and quality control reviews prior to milestone deliverables, etc.

EXHIBIT A

Task 2 – Preliminary Engineering (PE)

Task 2.1: Field Reconnaissance and Existing Data Collection

Consultant shall perform field reconnaissance and identify required tasks and studies to complete preliminary engineering. Such tasks shall include and not be limited to survey, right of way studies, geotechnical studies, stormwater management studies, hydrology and hydraulic studies, utility pothole and investigations, etc.

Consultant shall secure all necessary encroachment and right of entry permits to perform field survey, investigations, and studies. This includes and is not limited to: Encroachment permits from the Alameda County, LARPD, Zone 7, etc.

Right of entry from adjacent park property to survey the existing abutting terrain.

Obtain and review existing available materials, as-builts, existing right of way maps, environmental documents, aerial photos, perform topographic survey, map utilities and right of way, and prepare the necessary base mapping documents to develop preliminary engineering in accordance with City planning, policy, standards, and procedures, and the California MUTCD standards.

Task 2.2: Geotechnical Design Memorandum

Consultant shall perform additional geotechnical evaluations for the permanent repair. Consultant shall perform slope stability analyses based on the available boring data without additional field exploration or laboratory tests. The slope stability analyses will follow Caltrans standards.

A design memorandum will be prepared to summarize the geotechnical recommendations needed for the proposed improvement. A draft report will be submitted for internal review and comments. The final report will incorporate the review comments or design revisions.

Task 2.3: Basis of Design Memorandum (Optional Task)

Consultant shall prepare a Basis of Design Memorandum documenting design criteria used, non-standard features, project purpose, project need, opportunities, and constraints. Included in the Basis of Design Memorandum will be the Conceptual Design Plan.

Deliverables:

- ✓ Geotechnical Design Memorandum
- ✓ Base Map
- ✓ Basis of Design Memorandum (Optional)
- ✓ Conceptual Design Plan (Optional)

Task 3 – Environmental Document & Permitting

EXHIBIT A

Task 3.1: Caltrans Preliminary Environmental Study (PES) and Field Review

Since the slope repair project will utilize federal grant funds, compliance with the National Environmental Policy Act (NEPA) and related federal statutes will be required. David J. Powers & Associates, Inc. (DJP&A) will work with the city and project team to develop a project description for submittal to Caltrans. DJP&A will prepare the Caltrans' Preliminary Environmental Study (PES) form and attend one formal Caltrans Field Review for the proposed project. The PES form will include a visual impact assessment, USFWS list of federally listed species, Federal Emergency Management Agency (FEMA) floodplain map, and hazardous materials database mapping.

Task 3.2: NEPA Technical Studies

Consultant shall prepare the following technical studies for the project that are assumed to be requested to satisfy NEPA compliance for Caltrans, the City, and regulatory agencies. This scopes assumes the project will incorporate Caltrans Local Assistance Standard Mitigation measures to address construction traffic, water quality, and noise – no technical studies will be prepared for these disciplines. The studies will be based, in part, on technical information provided by the project team.

Task 3.2b: Air Quality Memorandum (Optional Task)

If desired, Illingworth & Rodkin, Inc. (I&R), under contract to DJP&A, will prepare a construction emissions analysis and a health risk assessment for the project.

Task 3.2e: Natural Environment Study (NES), Biological Assessment (BA)

Sequoia Ecological Consulting, Inc. (Sequoia), under contract to DJP&A, will prepare an NES and BA to document the various biological and/or physical elements that could be potentially impacted by the project. The BA will also support consultation with the United State Fish & Wildlife Service (USFWS).

Task 3.2f: Cultural Reports (ASR/HPSR)

Archaeological and Historical Consultants (A/HC) will prepare an Area of Potential Effect Map, Archaeological Survey Report (ASR), and Historic Properties Survey Report (HPSR) to document any archaeological resources that may be discovered on-site and impacted by the project. Additionally, A/HC will adapt the Section 106 findings to support the City of Livermore with the CEQA AB 52 Native American consultation process, as needed.

Task 3.2g: NEPA CE, CEQA NOE and ECR Documentation

DJP&A will assist Caltrans, as needed, in the preparation of the NEPA Categorical Exclusion (CE) and the Environmental Commitment Record (ECR).

Based on discussions with City of Livermore staff, Consultant will file a Notice of Exemption for the project with Alameda County. Pursuant to Section 21080(b)(3) of the CEQA Guidelines, the project involves repair and restoration of an existing facility damaged during a disaster for which the Governor has declared a state of emergency and, therefore, is statutorily exempt from CEQA. DJP&A will prepare the Notice of Exemption in coordination with City staff and the project

EXHIBIT A

team.

Task 3.2f: Aquatic Resources Delineation Report (Optional Task)

Sequoia will complete an Aquatic Resources Delineation Report, if necessary, that will include mapping of all potential waters of the U.S./State and locations of ordinary high-water mark, as applicable, to assess potential impacts to aquatic resources within agency jurisdictions.

Task 3.3: USFWS & CDFW Permitting

Consultant will apply for permits from the USFWS and the California Department of Fish & Wildlife (CDFW) pursuant to Section 7 of the Endangered Species Act and Section 2080 of the California Fish and Game Code (CFGC), respectively, due to potential impacts to California tiger salamander habitat.

This scope assumes that an Incidental Take Permit (ITP) will not be required for the project. If CDFW determines that there is potential for impacts to state-listed species which are not covered under USFWS consultation, or mitigation/conservation measures are deficient, then the CDFW will require the project to submit an ITP application. Consultant can assist the city in preparing an ITP application at an additional cost to be determined at the time an application is requested by the CDFW.

Task 3.4: USACE and 401 Cert Permitting (Optional Task)

For Clean Water Act compliance, the project is anticipated to be permitted via use of the USACE's Nationwide Permit (NWP) Program. Consultant will prepare a Preconstruction Notice as necessary to seek verification from USACE that the project meets conditions necessary to use NWPs. Consultant will also determine the proper NWP number for the planned activity, complete the USACE Pre-Construction Notification checklist, and compile all supporting documents.

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which results in discharge of pollutants into waters of the US must obtain a state water quality certificate. Consultant will prepare and submit a Clean Water Act Section 401 certification of water quality for the project.

Task 3.5: CEQA Initial Study / Mitigated Negative Declaration (Optional Task)

In the event it is determined an Initial Study/Mitigated Negative Declaration (IS/MND) should be prepared for regulatory permitting purposes, DJP&A can prepare an IS/MND as an optional task. DJP&A would use the technical reports and memos prepared for NEPA compliance as technical reports for the IS/MND. DJP&A would prepare one administrative draft version of the document and a screencheck version before finalizing the document for circulation.

Deliverables:
All deliverables in Task 3 are assumed to have two submittals, a Draft submittal to the city for comment and a Final submittal incorporating all city comments.

- ✓ Traffic Technical Memorandum

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- ✓ Air Quality Memorandum
- ✓ Water Quality Technical Memorandum
- ✓ Construction Noise Memorandum
- ✓ Natural Environment Study
- ✓ Biological Assessment
- ✓ APE Map, ASR and HPSR
- ✓ Environmental Commitment Record
- ✓ CEQA Notice of Exemption (NOE)
- ✓ NEPA Categorical Exclusion (CE)
- ✓ Aquatic Resources Delineation Report (if required) (Optional)
- ✓ RWQCB Clean Water Act Section 401 Permit (Optional)
- ✓ USACE Nationwide Permit (Optional)
- ✓ CEQA Initial Study/Mitigated Negative Declaration (IS/MND) (Optional)

Task 4 – 35% Plans, Specifications & Estimate (PS&E)

Task 4.1: Plans

Consultant, based on the concept work completed, shall develop a geometric approval drawing at 35% level to obtain design concept approval from the City and for the preparation of plans and estimates. Identify utility conflicts or impact. Conduct utility potholing and coordinate with affected utility companies to incorporate their requirements. Develop preliminary layout, and utility and drainage plans. Plans shall be prepared for submission to PG&E to review potential conflicts.

The plan set is expected to include the following disciplines:

- Title Sheet
- Typical Sections
- Layout
- Drainage & Utilities

Task 4.2: Cost Estimate

Consultant will calculate preliminary quantities and prepare a preliminary cost estimate.

Deliverables:

- ✓ 35% design plans (11”X17”) (PDF)
- ✓ Engineer’s cost estimate (excel and PDF)
- ✓ Comment Matrix (word)

Task 5 – 65% Plans, Specifications & Estimate (PS&E)

EXHIBIT A

Task 5.1: Plans

Consultant shall prepare plans and specifications. Based on City and other stakeholder input, consultant shall develop 65% plan, specifications, and estimates (PS&E). The PS&E shall be prepared in accordance with the latest City Standards, California MUTCD, Caltrans Standard Plans, and other utility agencies' requirements.

The plan set is expected to include the following disciplines:

- Title Sheet
- Typical Sections
- Layout & Grading
- Drainage & Utilities
- Signing and Striping
- Erosion Control

The Consultant shall perform the following tasks:

- Collecting any required topographic survey data to design the civil improvements and prepare topographic map.
- Collect and review utility facility maps and record drawings.
- Coordinate with utility agencies.
- Prepare base map showing detailed existing improvements.
- Prepare underground utility mapping as needed to identify utility conflicts.

Task 5.2: Cost Estimate

Consultant will prepare Construction Cost Estimates consistent with the 65% Plans.

Task 5.3: Specifications

Specifications will be prepared in Caltrans format as a supplement to the Caltrans Standard Specifications.

Task 5.4: Construction Schedule (Optional Task)

Consultant will prepare a construction schedule depicting major items of work and anticipated durations.

Deliverables:

- ✓ 65% Design Plans (24"x36" and 11"X17") (PDF)
- ✓ 65% Technical Specifications (word and PDF)
- ✓ Engineer's Cost estimate (excel and PDF)
- ✓ Comment Matrix (word)
- ✓ Construction Schedule (Optional)

<u>Task 6 – 95% Plans, Specification and Estimate (PS&E)</u>

EXHIBIT A

Task 6.1: Plans

Consultant shall respond to comments on the 65% PS&E and prepare 95% detailed plans for proposed improvements.

Consultant shall prepare a response matrix listing City's review comments and consultant's responses to those comments. Consultant shall incorporate City and Consultant agreed-upon comments. Consultant shall return the original redline comments from the City with succeeding submittals. Consultant shall meet with the City to discuss 65% design comments. City staff will review the designs and estimates and will provide comments.

The Consultant shall perform the following tasks, including, but not limited to:

- Review and respond to City comments in a comment matrix.
- Incorporate 65% design submittal review comments.
- Prepare design specifications including construction bid item descriptions.

Task 6.2: Cost Estimate

Consultant shall respond to comments on the 65% PS&E and prepare 95% estimate for proposed improvements.

Task 6.3: Specifications

Consultant shall respond to comments on the 65% PS&E and prepare 95% specifications for proposed improvements.

6.4 – SWPPP (Optional Task)

Consultant will perform Stormwater Pollution Prevention Plan (SWPPP) assessment and prepare SWPPP.

Deliverables:

- ✓ 95% Design Plans (24"x36" and 11"X17") (PDF)
- ✓ 95% Technical Specifications (word and PDF)
- ✓ Engineer's Cost estimate (excel and PDF)
- ✓ Comment Matrix (word)
- ✓ Stormwater Pollution Prevention Plan (Optional)

<u>Task 7 – 100% Plans, Specifications and Estimate</u>

Consultant will respond to comments on the 95% PS&E and prepare final detailed plans, specifications, and estimates for proposed improvements. Consultant will prepare a response matrix listing City's review comments and consultant's responses to those comments. Consultant will incorporate City and Consultant agreed-upon comments. Consultant will return the original redline comments from the city with succeeding submittals. Consultant will meet with the city to discuss 95% design comments.

EXHIBIT A

Deliverables:

- ✓ Stormwater Pollution Prevention Plan
- ✓ Final (100%) stamped design plans (22”x34” and 11”X17”) in hard copy and a pdf file.
- ✓ Technical Specifications in hard copy and a pdf file
- ✓ Engineer’s cost estimate in hard copy and a pdf file.

Task 8 – Advertising and Bidding Support Services

Consultant will prepare responses to bid inquiries and addendums to the plans to address questions by bidders. Consultant will attend a pre-bid site visit with the bidders.

This task assumes 1 addendum and 2 sets of bid questions.

Task 9 – Construction Administration Services

Consultant will review submittals, shop drawings and other submittals for the project, respond to all Requests for Information (RFI) and Requests for Clarification (RFC). As requested by the City, consultant may attend biweekly construction meetings (total of 6) for duration of the project. Consultant will issue any revisions to plans or details as a result of the RFI/RFC process and if necessary, clarify the intent of the design or reflect material changes to the plans encountered during construction.

Consultant will prepare a set of as-built Record Drawings based on the Contractor’s and City Inspector’s redline markups.

Deliverables:

- ✓ 1 set of 22” x 34” prints and CAD files.

Exclusions and Assumptions:

- Record right-of-way will be used for design, boundary resolution is not required for the project.
- The topographic data previously collected via drone aerial survey will be relied upon.
- The project area is under 10,000 SF of new or replaced impervious area and is therefore excluded from C3 treatment requirements.
- Any previous environmental reports for the Project supplied to Client or the Project owner will be provided.
- Any previous correspondence between Client or the Project owner and government agencies will be provided.
- Any biological survey, assessment, or other reconnaissance is dependent on current conditions, and the data obtained may not be accurate or applicable in subsequent years.
- Changes to the Project Description that require revisions to CEQA documentation, NEPA documentation, studies, and/or permit applications may result in additional costs not covered in this Scope of Work.

EXHIBIT A

- Mitigation for Project impacts will be accomplished through purchase of credits at agency approved mitigation banks.
- Assumes that the Caltrans Office of Local Assistance will be the National Environmental Policy Act (NEPA) lead agency for the project.
- No Streetlighting, electrical or Signal Design is included in this work.
- No Stormwater sampling or construction inspection is included in this work, but this can be provided by HMH for an additional fee.
- The City of Livermore would undertake mailings and prepare public/newspaper notices for CEQA compliance. Consultant would prepare the Notice of Completion and Notice of Determination for filing with the State Clearinghouse and Alameda County. DJP&A would print up to 10 copies of the Initial Study. DJP&A would respond to comments received by the City of Livermore and would attend one public hearing to adopt the MND.
- It is assumed that no conformity documentation will be required. The City will provide an MTC PM2.5 confirmation email that the project is not a Project of Air Quality Concern.

EXHIBIT A
EXHIBIT A

PORTOLA AVENUE SLIDE REPAIR PROJECT

DAF No. LTP-LVMR-001-0, DISASTER No. CA23-1, FEDERAL PROJECT No. ER-15J7(107)

FEE SCHEDULE

	TASK		HMH FEE	DJPA FEE	Parikh FEE	($) TOTAL FEE
Task 1	**Project Management**					
Task 1.1	Project Management		$10,058			$10,058.00
Task 1.2	Project Meetings		$12,070			$12,069.60
	Task 1 Subtotal	**$22,127.60**	**$22,127.60**			
Task 2	**Preliminary Engineering (PE)**					
Task 2.1	Field Reconnaissance and Existing Data Collection		$2,370			$2,369.50
Task 2.2	Geotechnical Design Memorandum		$734		$11,785.06	$12,519.36
	Task 2 Subtotal	**$14,888.86**	**$3,103.80**		**$11,785.06**	
Task 3	**Environmental Document & Permitting**					
Task 3.1	PES and Field Review		$463	$9,891		$10,353.30
Task 3.2	NEPA Technical Studies		$463	$5,704		$6,167.20
Task 3.2e	Natural Environment Study (NES), Biological Assessment (BA)		$1,851	$33,658		$35,509.20
Task 3.2f	Cultural Reports (ASR/HPSR)		$463	$9,316		$9,778.80
Task 3.2g	NEPA CE CEQA NOE and ECR Documentation		$463	$9,991		$10,453.30
Task 3.3	USFWS & CDFW Permitting		$3,542	$9,954		$13,495.90
	Task 3 Subtotal	**$85,757.70**	**$7,244.30**	**$78,513.40**		
Task 4	**35% Plans, Specifications & Estimate**					
Task 4.1	Plans		$13,674			$13,674.00
Task 4.2	Cost Estimate		$4,400			$4,399.60
	Task 4 Subtotal	**$18,073.60**	**$18,073.60**			
Task 5	**65% Plans, Specifications & Estimate**					
Task 5.1	Plans		$32,129	$5,677		$37,805.70
Task 5.2	Cost Estimate		$4,862			$4,862.40
Task 5.3	Specifications		$6,251			$6,250.80
	Task 5 Subtotal	**$48,918.90**	**$43,242.40**	**$5,676.50**		
Task 6	**95% Plans, Specifications & Estimate**					
Task 6.1	Plans		$19,536	$5,677		$25,212.50
Task 6.2	Cost Estimate		$5,078			$5,078.40
Task 6.3	Specifications		$2,370			$2,369.50
	Task 6 Subtotal	**$32,660.40**	**$26,983.90**	**$5,676.50**		
Task 7	**100% Plans, Specifications & Estimate**					
Task 7.1	Plans		$7,793			$7,793.40
Task 7.2	Cost Estimate		$2,539			$2,539.20
Task 7.3	Specifications		$1,321			$1,320.50
	Task 7 Subtotal	**$11,653.10**	**$11,653.10**			
Task 8	**Advertising and Bidding Support Services**		$4,233			$4,233.00
	Task 8 Subtotal	**$4,233.00**	**$4,233**			
Task 9	**Construction Adminstration Services**		$10,564			$10,564.00
	Task 9 Subtotal	**$10,564.00**	**$10,564**			
	TOTAL BASE SCOPE		**$147,226**	**$89,866**	**$11,785**	**$248,877**
	OPTIONAL TASKS					
Task 2.2	Basis of Design Memorandum		$13,581			$13,581.40
Task 3.2b	Construction Emissions Analysis and Health Risk Assessment		$463	$10,579		$11,041.34
Task 3.2f	Aquatic Resources Delineation Report		$1,388	$13,929		$15,317.28
Task 3.4	USACE and RWQCB Permitting		$7,331	$15,948		$23,278.60
Task 3.5	CEQA IS/MND		$6,640	$33,642		$40,281.93
Task 5.4	Construction Schedule		$2,394			$2,394.20
Task 6.4	SWPPP		$5,615			$5,615.20
	TOTAL OPTIONAL TASKS		**$37,412**	**$74,098**		**$111,510**
	GRAND TOTAL (BASE + OPTIONAL)					**$360,387**
	TOTAL NOT-TO-EXCEED FEE					**$361,000.00**

EXHIBIT A
EXHIBIT A

Cost Proposal 2
Specific Rate of Compensation (On-Call or As-Needed Contracts)

Note: Mark-ups are Not Allowed

Consultant: HMH Engineers

■ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Project: City of Livermore - Portola Ave Slope Repair

Contract No. _____ Participation Amount $ _____ Date: 7/2/2024

For Combined Rate
Fringe Benefit 95.95% + General & Administrative 84.53% = Combined 180.48%

For Home Office Rate
Fringe Benefit ___% + General & Administrative ___% = Home Office ___%

For Field Office Rate
Fringe Benefit ___% + General & Administrative ___% = Field Office ___%

Fee = 10%

BILLING INFORMATION **CALCULATION INFORMATION**

Name/Classification	Loaded Hourly Billing Rates Straight	Loaded Hourly Billing Rates Overtime	Effective Date of Hourly Rate From	Effective Date of Hourly Rate To	% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate	Hourly Range for Class
Principal	$ 314.70	N/A	7/1/2024	6/30/2025		$ 102.00	$ 73.60 to $ 112.20
	$ 330.43	N/A	7/1/2025	6/30/2026	5.00%	$ 107.10	$ 77.28 - $ 117.81
	$ 346.96	N/A	7/1/2026	6/30/2027	5.00%	$ 112.46	$ 81.14 - $ 123.70
	$ 364.30	N/A	7/1/2027	6/29/2028	5.00%	$ 118.08	$ 85.20 - $ 129.89
	$ 382.52	N/A	6/30/2028	6/29/2029	5.00%	$ 123.98	$ 89.46 - $ 136.38
Manager (Civil Engineering / Land Surveying / La	$ 283.85	N/A	7/1/2024	6/30/2025		$ 92.00	$ 65.50 to $ 110.00
	$ 298.04	N/A	7/1/2025	6/30/2026	5.00%	$ 96.60	$ 68.78 - $ 115.50
	$ 312.94	N/A	7/1/2026	6/30/2027	5.00%	$ 101.43	$ 72.21 - $ 121.28
	$ 328.59	N/A	7/1/2027	6/29/2028	5.00%	$ 106.50	$ 75.82 - $ 127.34
	$ 345.02	N/A	6/30/2028	6/29/2029	5.00%	$ 111.83	$ 79.62 - $ 133.71
Senior Civil Engineer / Planner / Land Surveyor /	$ 238.34	N/A	7/1/2024	6/30/2025		$ 77.25	$ 49.50 to $ 102.90
	$ 250.25	N/A	7/1/2025	6/30/2026	5.00%	$ 81.11	$ 51.98 - $ 108.05
	$ 262.77	N/A	7/1/2026	6/30/2027	5.00%	$ 85.17	$ 54.57 - $ 113.45
	$ 275.91	N/A	7/1/2027	6/29/2028	5.00%	$ 89.43	$ 57.30 - $ 119.12
	$ 289.70	N/A	6/30/2028	6/29/2029	5.00%	$ 93.90	$ 60.17 - $ 125.08
Project Civil Engineer / Land Surveyor / Landsca	$ 162.75	N/A	7/1/2024	6/30/2025		$ 52.75	$ 44.50 to $ 62.20
	$ 170.89	N/A	7/1/2025	6/30/2026	5.00%	$ 55.39	$ 46.73 - $ 65.31
	$ 179.43	N/A	7/1/2026	6/30/2027	5.00%	$ 58.16	$ 49.06 - $ 68.58
	$ 188.40	N/A	7/1/2027	6/29/2028	5.00%	$ 61.06	$ 51.51 - $ 72.00
	$ 197.82	N/A	6/30/2028	6/29/2029	5.00%	$ 64.12	$ 54.09 - $ 75.60
Engineer / Planner / Surveyor / Landscape Desig	$ 154.26	N/A	7/1/2024	6/30/2025		$ 50.00	$ 38.20 to $ 55.70
	$ 161.98	N/A	7/1/2025	6/30/2026	5.00%	$ 52.50	$ 40.11 - $ 58.49
	$ 170.08	N/A	7/1/2026	6/30/2027	5.00%	$ 55.13	$ 42.12 - $ 61.41
	$ 178.58	N/A	7/1/2027	6/29/2028	5.00%	$ 57.88	$ 44.22 - $ 64.48
	$ 187.51	N/A	6/30/2028	6/29/2029	5.00%	$ 60.78	$ 46.43 - $ 67.70
Assistant Engineer / Surveyor / Planner / Landsc	$ 112.40	N/A	7/1/2024	6/30/2025		$ 36.43	$ 29.80 to $ 47.70
	$ 118.02	N/A	7/1/2025	6/30/2026	5.00%	$ 38.25	$ 31.29 - $ 50.09
	$ 123.92	N/A	7/1/2026	6/30/2027	5.00%	$ 40.16	$ 32.85 - $ 52.59
	$ 130.11	N/A	7/1/2027	6/29/2028	5.00%	$ 42.17	$ 34.50 - $ 55.22
	$ 136.62	N/A	6/30/2028	6/29/2029	5.00%	$ 44.28	$ 36.22 - $ 57.98
Junior Engineer / Surveyor / Planner / Landscape	$ 118.78	N/A	7/1/2024	6/30/2025		$ 38.50	$ 35.00 to $ 42.40
	$ 124.72	N/A	7/1/2025	6/30/2026	5.00%	$ 40.43	$ 36.75 - $ 44.52
	$ 130.96	N/A	7/1/2026	6/30/2027	5.00%	$ 42.45	$ 38.59 - $ 46.75
	$ 137.51	N/A	7/1/2027	6/29/2028	5.00%	$ 44.57	$ 40.52 - $ 49.08
	$ 144.38	N/A	6/30/2028	6/29/2029	5.00%	$ 46.80	$ 42.54 - $ 51.54
Engineering Design Specialist	$ 175.86	N/A	7/1/2024	6/30/2025		$ 57.00	$ 44.10 to $ 89.10
	$ 184.65	N/A	7/1/2025	6/30/2026	5.00%	$ 59.85	$ 46.31 - $ 93.56
	$ 193.89	N/A	7/1/2026	6/30/2027	5.00%	$ 62.84	$ 48.62 - $ 98.23
	$ 203.58	N/A	7/1/2027	6/29/2028	5.00%	$ 65.98	$ 51.05 - $ 103.14
	$ 213.76	N/A	6/30/2028	6/29/2029	5.00%	$ 69.28	$ 53.60 - $ 108.30
Design Specialist	$ 222.14	N/A	7/1/2024	6/30/2025		$ 72.00	$ 40.20 to $ 79.20
	$ 233.25	N/A	7/1/2025	6/30/2026	5.00%	$ 75.60	$ 42.21 - $ 83.16

EXHIBIT A

EXHIBIT A

	$ 244.91	N/A	7/1/2026	6/30/2027	5.00%	$ 79.38	$ 44.32 -	$ 87.32
	$ 257.16	N/A	7/1/2027	6/29/2028	5.00%	$ 83.35	$ 46.54 -	$ 91.68
	$ 270.01	N/A	6/30/2028	6/29/2029	5.00%	$ 87.52	$ 48.86 -	$ 96.27
Senior Technician	$ 194.37	N/A	7/1/2024	6/30/2025		$ 63.00	$ 45.90 to	$ 71.50
	$ 204.09	N/A	7/1/2025	6/30/2026	5.00%	$ 66.15	$ 48.20 -	$ 75.08
	$ 214.30	N/A	7/1/2026	6/30/2027	5.00%	$ 69.46	$ 50.60 -	$ 78.83
	$ 225.01	N/A	7/1/2027	6/29/2028	5.00%	$ 72.93	$ 53.13 -	$ 82.77
	$ 236.26	N/A	6/30/2028	6/29/2029	5.00%	$ 76.58	$ 55.79 -	$ 86.91
Project Technician	$ 129.58	N/A	7/1/2024	6/30/2025		$ 42.00	$ 38.20 to	$ 46.20
	$ 136.06	N/A	7/1/2025	6/30/2026	5.00%	$ 44.10	$ 40.11 -	$ 48.51
	$ 142.86	N/A	7/1/2026	6/30/2027	5.00%	$ 46.31	$ 42.12 -	$ 50.94
	$ 150.01	N/A	7/1/2027	6/29/2028	5.00%	$ 48.62	$ 44.22 -	$ 53.48
	$ 157.51	N/A	6/30/2028	6/29/2029	5.00%	$ 51.05	$ 46.43 -	$ 56.16
Technician	$ 104.90	N/A	7/1/2024	6/30/2025		$ 34.00	$ 30.90 -	$ 37.40
	$ 110.14	N/A	7/1/2025	6/30/2026	5.00%	$ 35.70	$ 32.45 -	$ 39.27
	$ 115.65	N/A	7/1/2026	6/30/2027	5.00%	$ 37.49	$ 34.07 -	$ 41.23
	$ 121.43	N/A	7/1/2027	6/29/2028	5.00%	$ 39.36	$ 35.77 -	$ 43.30
	$ 127.51	N/A	6/30/2028	6/29/2029	5.00%	$ 41.33	$ 37.56 -	$ 45.46
Assistant Technician	$ 83.30	N/A	7/1/2024	6/30/2025		$ 27.00	$ 24.50 -	$ 29.70
	$ 87.47	N/A	7/1/2025	6/30/2026	5.00%	$ 28.35	$ 25.73 -	$ 31.19
	$ 91.84	N/A	7/1/2026	6/30/2027	5.00%	$ 29.77	$ 27.01 -	$ 32.74
	$ 96.43	N/A	7/1/2027	6/29/2028	5.00%	$ 31.26	$ 28.36 -	$ 34.38
	$ 101.25	N/A	6/30/2028	6/29/2029	5.00%	$ 32.82	$ 29.78 -	$ 36.10
Junior Technician	$ 92.56	N/A	7/1/2024	6/30/2025		$ 30.00	$ 24.50 -	$ 33.00
	$ 97.19	N/A	7/1/2025	6/30/2026	5.00%	$ 31.50	$ 25.73 -	$ 34.65
	$ 102.05	N/A	7/1/2026	6/30/2027	5.00%	$ 33.08	$ 27.01 -	$ 36.38
	$ 107.15	N/A	7/1/2027	6/29/2028	5.00%	$ 34.73	$ 28.36 -	$ 38.20
	$ 112.51	N/A	6/30/2028	6/29/2029	5.00%	$ 36.47	$ 29.78 -	$ 40.11
Senior Field Eng	$ 170.77	N/A	7/1/2024	6/30/2025		$ 55.35	$ 50.30 -	$ 60.90
	$ 179.31	N/A	7/1/2025	6/30/2026	5.00%	$ 58.12	$ 52.82 -	$ 63.95
	$ 188.27	N/A	7/1/2026	6/30/2027	5.00%	$ 61.02	$ 55.46 -	$ 67.14
	$ 197.69	N/A	7/1/2027	6/29/2028	5.00%	$ 64.07	$ 58.23 -	$ 70.50
	$ 207.57	N/A	6/30/2028	6/29/2029	5.00%	$ 67.28	$ 61.14 -	$ 74.02
Chainman	$ 170.77	N/A	7/1/2024	6/30/2025		$ 55.35	$ 44.40 -	$ 53.80
	$ 179.31	N/A	7/1/2025	6/30/2026	5.00%	$ 58.12	$ 46.62 -	$ 56.49
	$ 188.27	N/A	7/1/2026	6/30/2027	5.00%	$ 61.02	$ 48.95 -	$ 59.31
	$ 197.69	N/A	7/1/2027	6/29/2028	5.00%	$ 64.07	$ 51.40 -	$ 62.28
	$ 207.57	N/A	6/30/2028	6/29/2029	5.00%	$ 67.28	$ 53.97 -	$ 65.39
Crew Chief	$ 150.81	N/A	7/1/2024	6/30/2025		$ 48.88	$ 50.30 -	$ 60.90
	$ 158.35	N/A	7/1/2025	6/30/2026	5.00%	$ 51.32	$ 52.82 -	$ 63.95
	$ 166.27	N/A	7/1/2026	6/30/2027	5.00%	$ 53.89	$ 55.46 -	$ 67.14
	$ 174.58	N/A	7/1/2027	6/29/2028	5.00%	$ 56.58	$ 58.23 -	$ 70.50
	$ 183.31	N/A	6/30/2028	6/29/2029	5.00%	$ 59.41	$ 61.14 -	$ 74.02
Project Support Staff	$ 149.82	N/A	7/1/2024	6/30/2025		$ 48.56	$ 30.50 -	$ 90.80
	$ 157.31	N/A	7/1/2025	6/30/2026	5.00%	$ 50.99	$ 32.03 -	$ 95.34
	$ 165.18	N/A	7/1/2026	6/30/2027	5.00%	$ 53.54	$ 33.63 -	$ 100.11
	$ 173.44	N/A	7/1/2027	6/29/2028	5.00%	$ 56.21	$ 35.31 -	$ 105.11
	$ 182.11	N/A	6/30/2028	6/29/2029	5.00%	$ 59.02	$ 37.07 -	$ 110.37
Intern	$ 70.96	N/A	7/1/2024	6/30/2025		$ 23.00	$ 18.20 -	$ 26.40
	$ 74.51	N/A	7/1/2025	6/30/2026	5.00%	$ 24.15	$ 19.11 -	$ 27.72
	$ 78.23	N/A	7/1/2026	6/30/2027	5.00%	$ 25.36	$ 20.07 -	$ 29.11
	$ 82.15	N/A	7/1/2027	6/29/2028	5.00%	$ 26.63	$ 21.07 -	$ 30.56
	$ 86.25	N/A	6/30/2028	6/29/2029	5.00%	$ 27.96	$ 22.12 -	$ 32.09

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

2. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.

3. For named employees enter the actual hourly rate. For classifications only, enter the average hourly rate for that classification.

Note:

• Denote all employees subject to prevailing wage with an asterisks (*)

• For “Other Direct Cost” listing, see page 2 of this Exhibit

EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Consultant/Contractor shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$10,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Consultant/Contractor is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Professional Liability/Errors and Omissions:
   $2,000,000 per claim. Consultant/Contractor warrants that any retroactive date under this policy shall precede the effective date of this contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two years beginning at the time work under this contract is completed.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated

volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant/Contractor; or automobiles owned, leased, hired or borrowed by the Consultant/Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Consultant's/Contractor's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Consultant's/Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Verification of Coverage

Consultant/Contractor shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

EXHIBIT A
EXHIBIT C

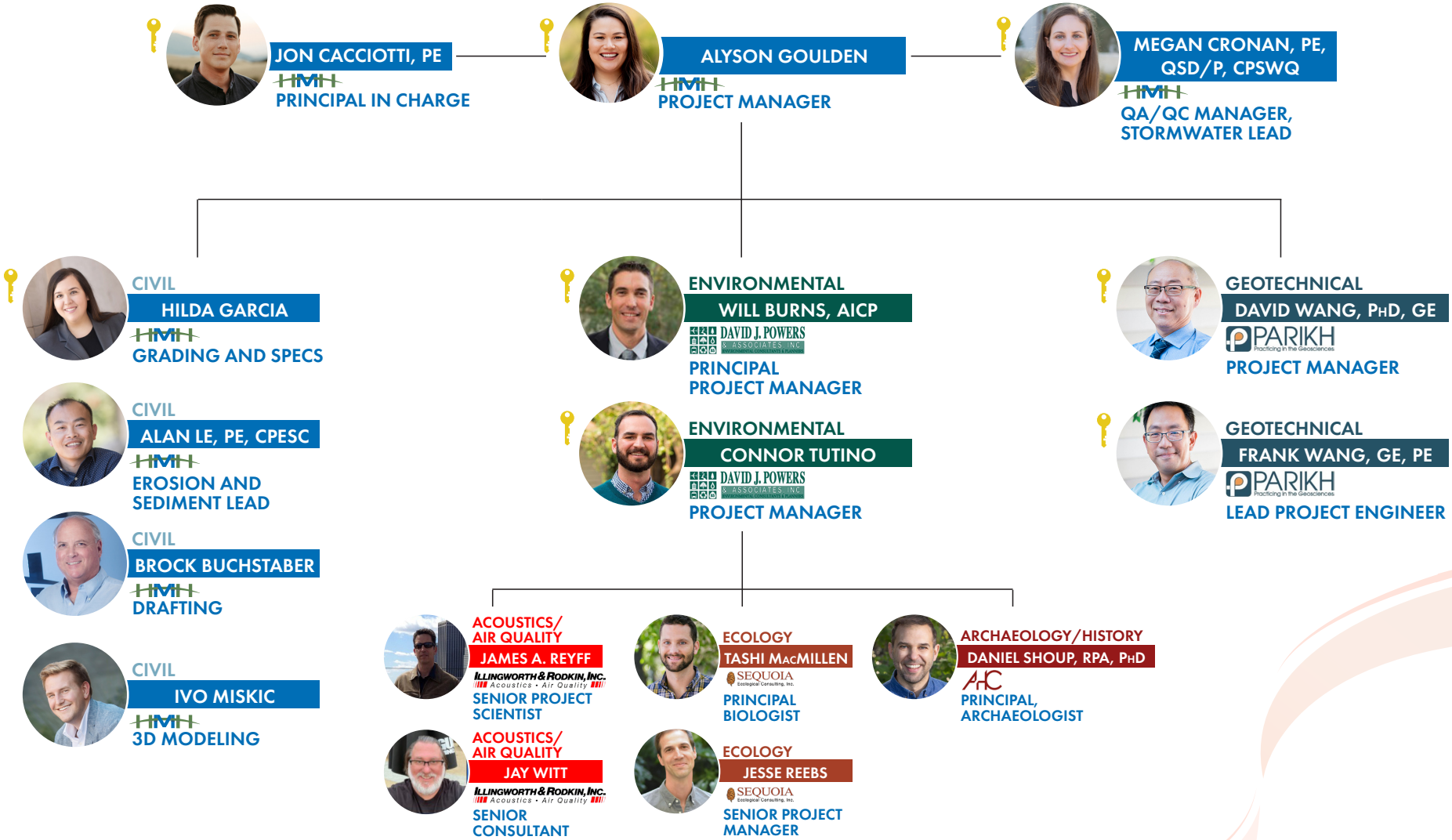
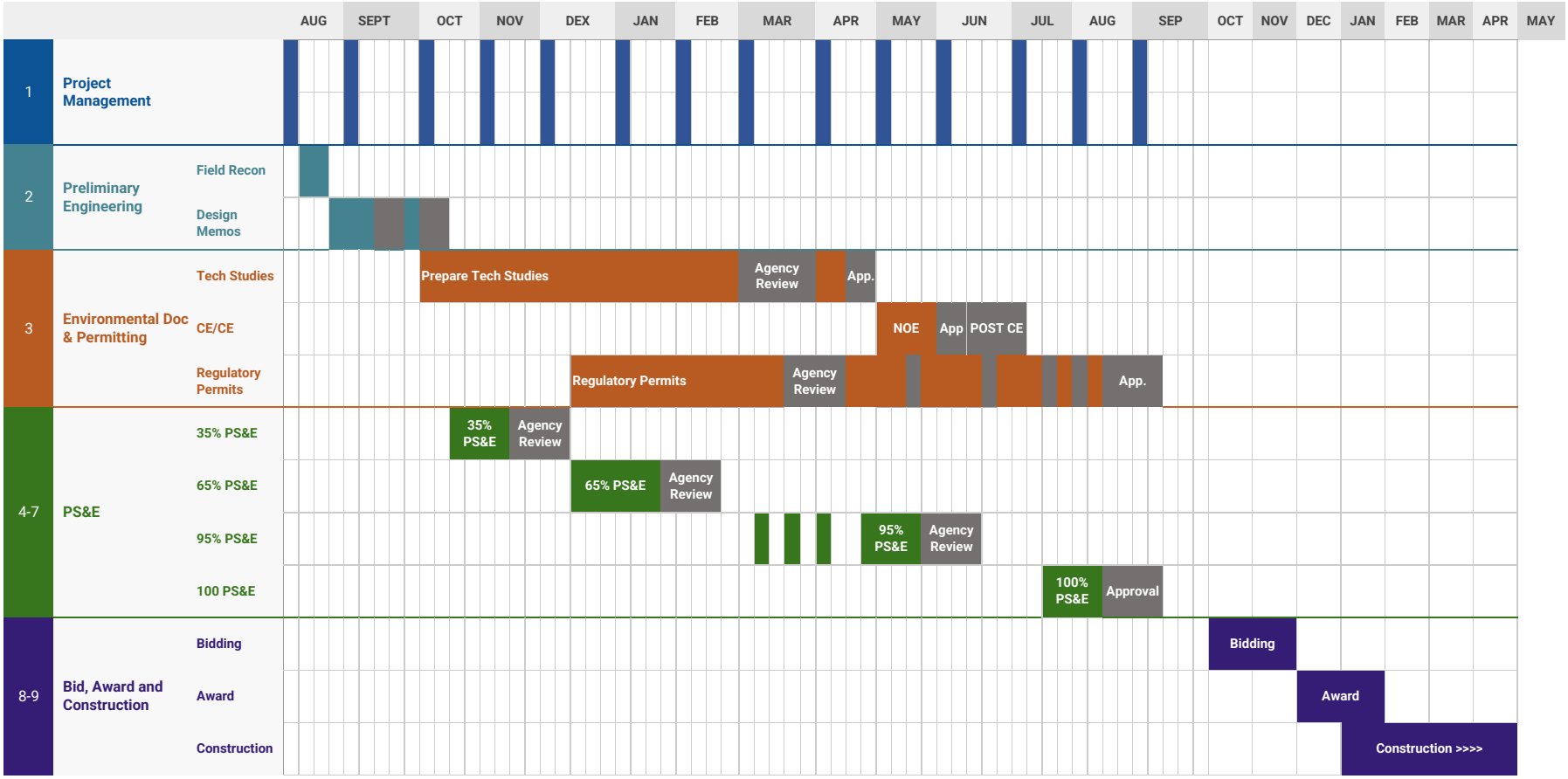


EXHIBIT A
EXHIBIT C

Portola Ave Slope Repair

Milestone Schedule



Schedule subject to external party's timely input and approval of Project Documents

Caltrans Local Assistance Procedures Manual
Exhibit 10-R: A&E BOILERPLATE AGREEMENT LANGUAGE
(For Local Assistance Federal-Aid Projects)

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I. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

A. The CONSULTANT agrees that 48 CFR 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.

B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR 31 or 2 CFR 200 are subject to repayment by the CONSULTANT to LOCAL AGENCY.

D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

II. RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

III. AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.

B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.

D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR 31 and other related laws and regulations. In the

instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, LOCAL AGENCY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR (e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines) is received and approved by IOAI.

   Accepted rates will be as follows:

   a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

   b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

   c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.

3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.

4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

IV. SUBCONTRACTING

A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.

B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.

C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.

D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.

E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

G. Prompt Payment of Withheld Funds to Subconsultants

No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning

subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clauseapplies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

V. EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars ($5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars ($5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.

C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:

1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars ($5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.

2. Regulation 2 CFR 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars ($5,000) is credited to the project.

VI. STATE PREVAILING WAGE RATES

A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.

B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (https://dot.ca.gov/programs/construction/labor-compliance). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.

C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at http://www.dir.ca.gov.

D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

    a. The information contained in the payroll record is true and correct.

    b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.

2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:

    a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

    b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

    c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.

3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a

written request.

4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.

5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.

4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the CONSULTANT of the project is not liable for the penalties described above unless the CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the CONSULTANT fails to comply with all of the following requirements:

a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.

b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.

c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.

d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.

5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.

6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars ($25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars ($30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at https://www.dir.ca.gov/das/, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

VII. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

VIII. PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING

A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:

1. No State, Federal, or LOCAL AGENCY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure.

C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars ($100,000), and that all such subrecipients shall certify and disclose accordingly.

IX. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

A. The CONSULTANT’s signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.

B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT’s benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran

status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.

E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.

G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

X. DEBARMENT AND SUSPENSION CERTIFICATION

A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of

ineligibility by any federal agency;

2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
3. Does not have a proposed debarment pending; and
4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

C. Exceptions to the Federal Government excluded parties (https://sam.gov/content/home) maintained by the U.S. General Services Administration are to be determined by FHWA.

XI. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, the LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate Good Faith Efforts (GFE) to meet this goal. It is CONSULTANT's responsibility to verify at date of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes and work code applicable to the type of work the firm will perform on the contract. Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at https://dot.ca.gov/programs/civil-rights/dbe-search.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- ☐ 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- ☐ 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- ☐ Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTs who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

B. The goal for DBE participation for this AGREEMENT is 17.00 %. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10-O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the

AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: Proposer/Contractor Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and Replacement of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the LOCAL AGENCY's written consent. CONSULTANT shall not terminate or replace a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the LOCAL AGENCY. Unless the LOCAL AGENCY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02: Consultant Contract DBE Commitment form.

Termination of DBE Subconsultants

After execution of the AGREEMENT, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the LOCAL AGENCY:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.

6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. isted DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract.
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT must use the following procedures to request the termination of a DBE or portion of a DBE's work:

1. Send a written notice to the DBE of the CONSULTANT's intent to use other forces or material sources and include one or more justifiable reasons listed above. Simultaneously send a copy of this written notice to the LOCAL AGENCY. The written notice to the DBE must request they provide any response within five (5) business days to both the CONSULTANT and the LOCAL AGENCY by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur.
2. If the DBE does not respond within five (5) business days, CONSULTANT may move forward with the request as if the DBE had agreed to CONSULTANT's written notice.
3. Submit CONSULTANT's DBE termination request by written letter to the LOCAL AGENCY and include:
    - One or more above listed justifiable reasons along with supporting documentation.
    - CONSULTANT's written notice to the DBE regarding the request, including proof of transmission and tracking documentation of CONSULTANT's written notice
    - The DBE's response to CONSULTANT's written notice, if received. If a written response was not provided, provide a statement to that effect.

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE termination request within five (5) business days.

Replacement of DBE Subconsultants

After receiving the LOCAL AGENCY's written authorization of DBE termination request, CONSULTANT must obtain the LOCAL AGENCY's written agreement for DBE replacement. CONSULTANT must find or demonstrate GFEs to find qualified DBE replacement firms to perform the work to the extent needed to meet the DBE commitment.

The following procedures shall be followed to request authorization to replace a DBE firm:

1. Submit a request to replace a DBE with other forces or material sources in writing to the LOCAL AGENCY which must include:
    a. Description of remaining uncommitted work item made available for replacement DBE solicitation and participation.
    b. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
        - Description of scope of work and cost proposal
        - Proposed subcontract agreement and written confirmation of agreement to

perform on the Contract

- Revised Exhibit 10-O2: Consultant Contract DBE Commitment

2. If CONSULTANT has not identified a DBE replacement firm, submits documentation of CONSULTANT's GFEs to use DBE replacement firms within seven (7) days of LOCAL AGENCY's authorization to terminate the DBE. CONSULTANT may request the LOCAL AGENCY's approval to extend this submittal period to a total of 14 days. Submit documentation of actions taken to find a DBE replacement firm, such as:
   - Search results of certified DBEs available to perform the original DBE work identified and or other work CONSULTANT had intended to self-perform, to the extent needed to meet DBE commitment
   - Solicitations of DBEs for performance of work identified
   - Correspondence with interested DBEs that may have included contract details and requirements
   - Negotiation efforts with DBEs that reflect why an agreement was not reached
   - If a DBE's quote was rejected, provide reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
   - Copies of each DBE's and non-DBE's price quotes for work identified, as the LOCAL AGENCY may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
   - Additional documentation that supports CONSULTANT's GFE

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE replacement request within five (5) business days.

F. Commitment and Utilization

The LOCAL AGENCY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
   - Name and business address of each 1st-tier subconsultant
   - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
   - Date of payment and total amount paid to each business (see Exhibit 9-F: Monthly Disadvantaged Business Enterprise Payment)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit

the notifications to the LOCAL AGENCY. On work completion, CONSULTANT shall complete Exhibit 17-O: Disadvantaged Business Enterprises (DBE) Certification Status Change and submit the form to the LOCAL AGENCY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F: Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the LOCAL AGENCY within 90 days of contract acceptance. The LOCAL AGENCY will withhold $10,000 until the form is submitted. The LOCAL AGENCY will release the withhold upon submission of the completed form.

In the LOCAL AGENCY's reports of DBE participation to Caltrans, the LOCAL AGENCY must display both commitments and attainments.

G. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself.

CONSULTANT must perform CUF evaluation for each DBE working on a federal-aid contract, with or without a DBE goal. Perform a CUF evaluation at the beginning of the DBE's work and continue to monitor the performance of CUF for the duration of the project.

CONSULTANT must provide written notification to the LOCAL AGENCY at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. The notification must include the DBE's name, work the DBE will perform on the contract, and the location, date, and time of where their work will take place.

Within 10 days of a DBE initially performing work or supplying materials on the Contract, CONSULTANT shall submit to the LPA the initial evaluation and validation of DBE performance of a CUF using the LAPM 9-J: Disadvantaged Business Enterprise Commercially Useful Function Evaluation. Include the following information with the submittal:

- Subcontract agreement with the DBE
- Purchase orders
- Bills of lading
- Invoices
- Proof of payment

CONSULTANT must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the Contract using the LAPM 9-J: DBE Commercially Useful Function Evaluation. CONSULTANT must submit to the LOCAL AGENCY these quarterly evaluations and validations by the 5th of the month for the previous three months of work.

CONSULTANT must notify the LOCAL AGENCY immediately if they believe the DBE may not be performing a CUF.

The LOCAL AGENCY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional LOCAL AGENCY evaluations. The LOCAL AGENCY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The LOCAL AGENCY will provide written notice to the CONSULTANT and the DBE at least two (2) business days prior to any evaluation. The CONSULTANT and the DBE must participate in the evaluation. Upon completing the evaluation, the LOCAL AGENCY must share the evaluation results with the CONSULTANT and the DBE. An evaluation could include items that must be remedied upon receipt. If the LOCAL AGENCY determines the DBE is not performing a CUF, the CONSULTANT must suspend performance of the noncompliant work.

CONSULTANT and DBEs must submit any additional CUF related records and documents within five (5) business days of LOCAL AGENCY's request such as:

- Proof of ownership or lease and rental agreements for equipment
- Tax records
- Employee rosters
- Certified payroll records
- Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and documents can result in withholding of payment for the value of work completed by the DBE.

If CONSULTANT and/or the LOCAL AGENCY determine that a listed DBE is not performing a CUF in performance of their DBE committed work, CONSULTANT must immediately suspend performance of the noncompliant portion of the work. LOCAL AGENCY may deny payment for the noncompliant portion of the work. LOCAL AGENCY will ask the CONSULTANT to submit a corrective action plan (CAP) to the LOCAL AGENGY within five (5) days of the noncompliant CUF determination. The CAP must identify how the CONSULTANT will correct the noncompliance findings for the remaining portion of the DBE's work. LOCAL AGENCY has five (5) days to review the CAP in conjunction with the CONSULTANT's review. The CONSULTANT must implement the CAP within five (5) days of the LOCAL AGENCY's approval. The LOCAL AGENCY will then authorize the prior noncompliant portion of work for the DBE's committed work.

If corrective actions cannot be accomplished to ensure the DBE performs a commercially useful function on the Contract, CONSULTANT may have good cause to request termination of the DBE.

H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the

corresponding dollar value of the work.

K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.

L. For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.

   For projects awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract. If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

XII. SAFETY

A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.

B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

XIII. OWNERSHIP OF DATA

A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's

possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.

B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.

C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.

D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).

E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

XIV. CONFIDENTIALITY OF DATA

A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.

D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.

E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

XV. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

XVI. PROMPT PAYMENT

A. PROMPT PAYMENT FROM LOCAL AGENCY TO CONSULTANT

The LOCAL AGENCY shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the LOCAL AGENCY fails to pay promptly, the LOCAL AGENCY shall pay interest to the CONSULTANT, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the LOCAL AGENCY shall act in accordance with both of the following:

(1) The LOCAL AGENCY shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.

(2) The LOCAL AGENCY must return any payment request deemed improper by the LOCAL AGENCY to the CONSULTANT as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

B. PROMPT PAYMENT CERTIFICATION

For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract by the 15th of the month following the month of any payment(s). If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

The LOCAL AGENCY must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LOCAL AGENCY must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the CONSULTANT.

XVII. TITLE VI ASSURANCES

APPENDICES A - E of the TITLE VI ASSURANCES

APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter

referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate onthe grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.

e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limitedto:

   i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

   ii. cancellation, termination or suspension of the Agreement, in whole or in part.

f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B
CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

    1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations(as may be

amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest ,and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the “CONSULTANT”) agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.1681 et seq).

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: City of Livermore
2. Contract DBE Goal: 17.00%
3. Project Description: Portola Ave Slide Repair (DAF No. LTP-LVMR-001-0) - ER15-J7(107)
4. Project Location: Livermore, CA
5. Consultant's Name: HMH Engineers
6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Environmental Generalist	38205	David J. Powers, Will Burns wburns@davidjpowers.com, 510.902.5850	16.34
Geotechnical Engineering	20259	Parikh Consultants. Frank Wang FWang@Parikhnet.com, 408.452.9000	3.27
Biological Resources & Permitting	40492	Sequoia Ecological Consulting, Tashi MacMillen tmacmillen@sequoiaeco.com, 831.239.1645	23.54
		11. TOTAL CLAIMED DBE PARTICIPATION	43.15 %

Local Agency to Complete this Section

17. Local Agency Contract Number:
18. Federal-Aid Project Number: ER15-J7(107)

Consultant's Ranking after Evaluation: 1

Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.

21. Local Agency Representative's Signature — 22. Date: 7/10/2024
23. Local Agency Representative's Name: Leon Taing — 24. Phone: 925-960-4517
25. Local Agency Representative's Title: Associate Civil Engineer

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.

12. Preparer's Signature — 13. Date: 07/02/2024
14. Preparer's Name: Jon Cacciotti — 15. Phone: 408-487-2200
16. Preparer's Title: Vice President

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: City of Livermore
2. Contract DBE Goal: 17.00%
3. Project Description: Portola Ave Slide Repair (DAF No. LTP-LVMR-001-0) - ER15-J7(107)
4. Project Location: Livermore, CA
5. Consultant's Name: HMH Engineers
6. Prime Certified DBE: ☐
7. Total Contract Award Amount: $360,387
8. Total Dollar Amount for **ALL** Subconsultants: $ 175,749.00
9. Total Number of **ALL** Subconsultants: 5

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Environmental Generalist	38205	David J. Powers, Will Burns wburns@davidjpowers.com,	$ 58,877.73
Geotechnical Engineering	20259	Parikh Consultants. Frank Wang FWang@Parikhnet.com, 408.452.9000	$ 11,785.06
Biological Resources & Permitting	40492	Sequoia Ecological Consulting, Tashi MacMillen	$ 84,841.88
		14. TOTAL CLAIMED DBE PARTICIPATION	$ 155,504.0
			43.15 %

Local Agency to Complete this Section

20. Local Agency Contract Number:
21. Federal-Aid Project Number: ER15-J7(107)
22. Contract Execution Date:

Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.

23. Local Agency Representative's Signature
24. Date: 7/10/2024
25. Local Agency Representative's Name: Leon Taing
26. Phone: 925-960-4517
27. Local Agency Representative's Title: Associate Civil Engineer

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.

15. Preparer's Signature: Digitally signed by Jon Cacciotti Date: 2024.07.02 17:23:30-07'00'
16. Date: 7/2/24
17. Preparer's Name: Jon Cacciotti
18. Phone: 408-487-2200
19. Preparer's Title: Vice President

DISTRIBUTION: 1. Original – Local Agency
2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.8**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution approving Final Tract Map 8689 Arroyo Vista (Phase 2), authorizing execution of a Subdivision Improvement Agreement for the Arroyo Vista Project located on the east side of the Arroyo Seco Channel along Las Positas Road, and accepting on behalf of the public all real property offered for dedication within Final Tract Map 8689 except for certain easements which Council reserves the right to accept at a future date.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Finding that the requirements of the California Environmental Quality Act have been satisfied,
2. Approving Final Tract Map 8689 for recording,
3. Approving and authorizing execution of the Subdivision Improvement Agreement for Tract 8689 which includes a 12-month extension (24 months in total) to complete the required improvements, and
4. Accepting, on behalf of the public, all real property offered for dedication within Final Tract Map 8689 in conformance with the terms of the offer, except for the following: Public Utility Easement (P.U.E), Public Water Line Easement (W.L.E), and Public Sanitary Sewer Easement (S.S.E.), Parcel V (Fontana Street, Dolcetto Loop and Tarrango Street), Las Positas Road and Bennett Drive Street Dedications, and Emergency Vehicle Access Easement (E.V.A.E.) which the Council rejects at this time, reserving the right to accept the offer at a future date.

SUMMARY

In 2017 the City Council approved Vesting Tentative Tract Map 8689 (SUB16-010) Arroyo Vista for the development of 435 residential units consisting of Tract 8379 and Tract 8689. The first phase of the tentative map, Tract 8379, consists of 86 single family homes and 109 townhome units, and is located on the west side of the Arroyo Seco Channel along Las Positas Road. The second phase of the tentative map, Tract 8689, consists of 132 townhomes and 108 duet flats, and is located on the east side of the Arroyo Seco Channel along Las Positas Road and Bennett Drive. TH Arroyo Vista LLC, a California Limited Liability Company (Developer) has completed the Final Tract Map - Phase 2 and a Subdivision Improvement Agreement in substantial conformance with Vesting Tentative Tract Map 8379 and the

conditions of approval.

The proposed Subdivision Improvement Agreement will secure the construction of the public and private improvements. Public improvements include public sewer, water, lighting, streets and sidewalks, buffered bike lanes, and a portion of Las Positas Road and Bennett Drive. Private improvements include private streets, sidewalks, storm drain, open space, bio-retention basins, and lighting. Final Tract Map 8689 can now be approved. All real property offered for dedication on Final Tract Map 8689 can be accepted at this time, except for the following: Public Utility Easement (P.U.E), Public Water Line Easement (W.L.E), and Public Sanitary Sewer Easement (S.S.E.), Parcel V (Fontana Street, Dolcetto Loop and Tarrango Street), Las Positas Road and Bennett Drive street dedications, and Emergency Vehicle Access Easement (E.V.A.E.)., reserving the right to accept the offers at a future date.

DISCUSSION

On July 24, 2017, the City Council approved Vesting Tentative Tract Map 8379 (SUB16-010) Arroyo Vista for the development of 435 residential units. The property owner and developer, TH Arroyo Vista LLC, a California Limited Liability Company (Developer), has completed Tract Map 8689 and improvement plans, which staff has found to be in substantial conformance with the conditions of approval for Vesting Tentative Tract 8379. The improvement plans have been approved and are on file with the City Engineer. The Developer has entered into a low-income housing agreement with the City of Livermore (City), which includes 39 affordable for-sale units for Phase 2.

The Developer is responsible for funding and constructing the private and public improvements required for this development. Public improvements include public sewer, water, lighting, landscaping, buffered bike lanes along Las Positas Road, and new public streets known as Fontana Street, Dolcetto Loop and Tarrango Street (connecting Las Positas Road and Bennett Drive). Private improvements include private streets, sidewalks, storm drain, bio-retention basins, open space, and lighting. Community Facilities District 2023-2 (Arroyo Vista Maintenance and Services) was formed by City Council on January 22, 2024, to fund the public landscaping along Las Positas Road. The Developer has also submitted a Site Plan Design Review Modification (SPDRM) for an in-lieu bridge alternative which has been approved by the Planning Commission on July 16th and is scheduled for review at the September 9th City Council meeting. A condition of the SPDRM alternative includes elimination of the pedestrian bridge for an in-lieu financial contribution of two million dollars split evenly between the Community Benefit Fund and the Social Opportunity Endowment Fund.

The proposed Subdivision Improvement Agreement will secure the construction of the public and private improvements. The Developer has provided the required insurance and has provided bonds securing the construction of improvements per the provisions of the Subdivision Improvement Agreement. The bonds are on file in the City Clerk’s office. The bonds will be released once the public improvements have been completed and accepted by the City. According to Development Code section 10.05.090, the subdivider must complete the improvements within 12 months from the date of recording of the final map, unless an extension is granted by the City Council. The subdivider has requested a 12-month extension to complete the improvements. Staff recommends that a 12-month extension should be granted to the subdivider, for a total of 24 months, to provide ample time to complete the improvements as required.

The private infrastructure improvements, including storm drains, landscaping, and bio-retention basins will be privately maintained through the Homeowners Association. Staff has reviewed the Covenants, Conditions and Restrictions (CC&R's) and determined that the maintenance of this infrastructure has

been adequately addressed.

Final Tract Map 8689 includes an offer of dedication for public streets, public utility easement, public water and sanitary sewer and a public Emergency Vehicle Access Easement. Staff recommends the Council reject the Public Utility Easement (P.U.E), Public Water Line Easement (W.L.E), and Public Sanitary Sewer Easement (S.S.E.), Parcel V (Fontana Street, Dolcetto Loop and Tarrango Street), Las Positas Road and Bennett Drive Street Dedications, and Emergency Vehicle Access Easement (E.V.A.E.), reserving the right to accept the offers at a future date after these public improvements have been completed.

FISCAL AND ADMINISTRATIVE IMPACTS

The estimated annual cost for maintenance of public infrastructure, including curb, gutter, sidewalk, paving, streetlights, sewer and water is $52,400. $11,000 of this cost is funded by sanitary sewer user fees (Fund 620), and $28,000 of this cost is funded by water user fees (Fund 640). The remaining $7,400 is funded by the General Fund (Fund 100) and other use taxes, which is partially derived from increased property taxes generated from the new development.

Funding for other public infrastructure maintenance cost not covered by user fees is provided by the Community Facilities District No. 2023-2 (Arroyo Vista Maintenance & Services) which will be collected from the property owners. The annual maintenance costs of $27,000 include the landscape, drainage, and sidewalk along Las Positas Road.

COMMUNITY PILLAR

1: A Safe Community That Thrives

GOAL

9: Facilitate new development consistent with the City's General Plan

ATTACHMENTS

1. Vicinity Map
2. Resolution
3. Exhibit A - Final Tract Map 8689
4. Exhibit B - Subdivision Improvement Agreement

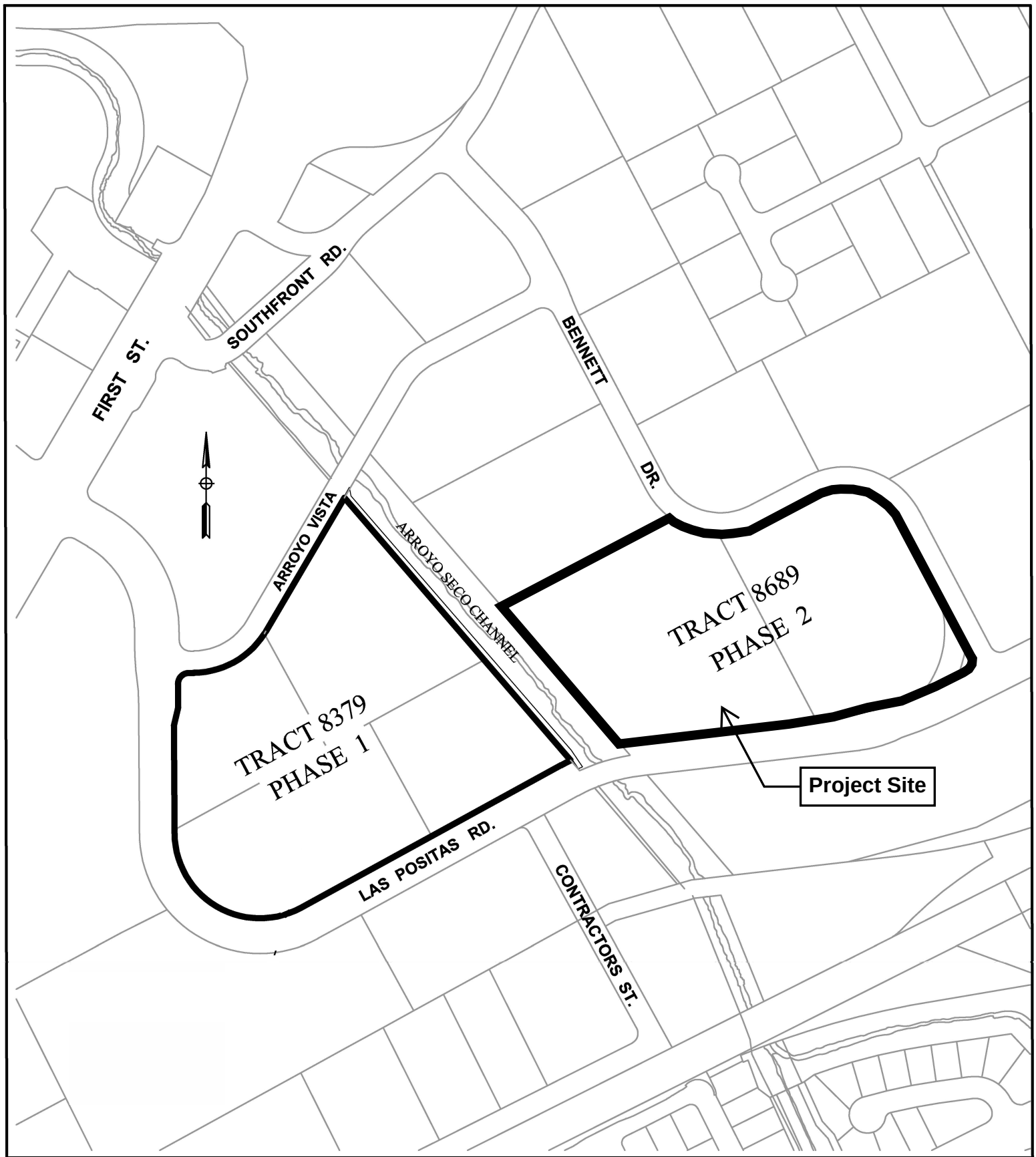
Prepared by: Farnoush Levers
Assistant City Engineer

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director



CITY OF LIVERMORE CALIFORNIA

COMMUNITY DEVELOPMENT DEPARTMENT - ENGINEERING DIVISION

ATTACHMENT 1

VICINITY MAP - TRACT 8689

Sheet 1
Of 1
Scale: NONE

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING FINAL TRACT MAP 8689 ARROYO VISTA (PHASE 2), AUTHORIZING EXECUTION OF A SUBDIVISION IMPROVEMENT AGREEMENT FOR THE ARROYO VISTA PROJECT LOCATED ON THE EAST SIDE OF THE ARROYO SECO CHANNEL ALONG LAS POSITAS ROAD, AND ACCEPTING ON BEHALF OF THE PUBLIC ALL REAL PROPERTY OFFERED FOR DEDICATION WITHIN FINAL TRACT MAP 8689 EXCEPT FOR CERTAIN EASEMENTS WHICH COUNCIL RESERVES THE RIGHT TO ACCEPT AT A FUTURE DATE

(FINAL TRACT MAP 8689 – ARROYO VISTA PROJECT)

TH Arroyo Vista LLC ("Developer") has presented Final Tract Map 8689 (SUB16-010) situated in the City of Livermore, County of Alameda, a copy of which is attached hereto as Exhibit A, in accordance with the provisions of the California Subdivision Map Act ("Act") and the Livermore Development Code. The Developer has presented a Subdivision Improvement Agreement, a copy of which is attached hereto as Exhibit B, providing for the improvements required as a condition of approval of the Final Tract Map.

The City Engineer reviewed the Final Tract Map and certified it as required by the Act and Development Code. Additionally, the City Engineer reviewed and approved the staff report concerning the Final Tract Map and Subdivision Improvement Agreement which recommends approval.

The City Attorney has reviewed the surety provided by TH Arroyo Vista LLC, to secure performance of the Subdivision Improvement Agreement as required by California and City law.

On July 24, 2017, the City Council adopted Resolution No. 2017-136 which, among other things, approved Vesting Tentative Tract Map 8379 Arroyo Vista Project, consisting of Tract 8379 (phase 1) and Tract 8689 (phase 2) (the "Project") subject to the conditions of approval. The City Council also determined that the Project was exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15162, which exempts projects from subsequent environmental review when a negative declaration has been adopted for a project, so long as there are no subsequent changes that could cause significant environmental impacts. Any potential impacts to the environment that may result due to approval of the proposed Tract Map and Subdivision Improvement Agreement were within the scope of the environmental review approved by Resolution Nos. 2017-135 and 2017-136.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that, because any potential impacts to the environment that may be caused by approval of Final Tract Map 8689 and the Subdivision Improvement Agreement were within the scope of the environmental review approved as part of Resolution Nos. 2017-135 and 2017-136, the requirements of the California Environmental Quality Act have been satisfied.

BE IT FURTHER RESOLVED by the City Council of the City of Livermore that:

1. Final Tract Map 8689, attached hereto as Exhibit A, is approved and all those parcels of land, easements, and other legal interests in land offered for public use are accepted in conformity with the terms of the offer, except for the following which the City Council rejects at this time, reserving the right to accept the offers at a future date subject to Government Code sections 66477.2 and 7050:

Public Utility Easement, Public Water Line Easement, Public Sanitary Sewer Easement, Street Dedications including: Parcel V (Fontana Street, Dolcetto Loop and Tarrango Street), Las Positas Road and Bennett Drive Street Roadway Dedications and Emergency Vehicle Access Easement.

2. The Subdivision Improvement Agreement, attached hereto as Exhibit B, is approved and the Mayor is authorized to sign the Agreement on behalf of the City of Livermore.

3. It grants, pursuant to Section 10.05.090 of the Livermore Development Code, the Developer a 12-month extension, which is reflected in the Subdivision Improvement Agreement, attached hereto as Exhibit B, allowing the Developer a total of 24 months from the date of the recording of the Final Map to complete the required improvements.

4. The City Clerk is directed to execute the certificate attached to the Final Tract Map 8689 and affix the Seal of the City and to record the Final Tract Map 8689, and the Subdivision Improvement Agreement with the County Recorder.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Molly O'Toole
Molly O'Toole
Deputy City Attorney

Exhibit A – Final Tract Map 8689
Exhibit B – Subdivision Improvement Agreement

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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CIVIL ENGINEERS
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• SURVEYORS • PLANNERS

AUGUST 2024

OWNER'S STATEMENT

THE UNDERSIGNED, TH ARROYO VISTA LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, HEREBY STATES THAT THEY ARE THE OWNERS OF ALL LANDS DELINEATED AND EMBRACED WITHIN THE BOUNDARY LINES UPON THE HEREIN EMBRACED MAP ENTITLED "TRACT 8689," CITY OF LIVERMORE, ALAMEDA COUNTY, CALIFORNIA CONSISTING OF 15 SHEETS, THIS STATEMENT BEING ON SHEET ONE THEREOF; THAT IT HAS CAUSED SAID MAP TO BE PREPARED FOR RECORD AND DOES CONSENT TO THE MAKING AND RECORDATION OF SAID MAP; THAT SAID MAP PARTICULARLY SETS FORTH AND DESCRIBES ALL THE LOTS AND PARCELS INTENDED FOR SALE BY NUMBERS WITH THEIR PRECISE LENGTH AND WIDTH.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED IN FEE FOR PUBLIC PURPOSES:

1. THE UNDERSIGNED HEREBY DEDICATE(S) RIGHT OF WAY TO THE CITY OF LIVERMORE FOR PUBLIC USE THOSE PARCELS OF LAND DESIGNATED AS "FONTANA STREET," "TARRANGO STREET," AND "DOLCETTO LOOP".
2. THE UNDERSIGNED HEREBY DEDICATE(S) RIGHT OF WAY TO THE CITY OF LIVERMORE FOR PUBLIC USE THOSE PARCELS OF LAND DESIGNATED AS "LAS POSITAS ROAD STREET DEDICATION" AND "BENNETT DRIVE STREET DEDICATION".

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES:

1. THE UNDERSIGNED HEREBY DEDICATES AN EASEMENT TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT AND MAINTAIN PUBLIC UTILITIES AND APPURTENANCES THERETO UNDER, ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "PUE" (PUBLIC UTILITY EASEMENT) THEREON, ALL AS EMBRACED WITHIN THE BOUNDARY LINES UPON SAID MAP AND THE RIGHT TO ENTER UPON ALL SAID STRIPS OF LAND FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, AND REPAIRING SAID PUBLIC UTILITIES AND APPURTENANCES THERETO.
2. THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT, RECONSTRUCT AND MAINTAIN WATER PIPES AND APPURTENANCES THERETO UNDER, ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "WLE," (PUBLIC WATER LINE EASEMENT) THEREON, ALL AS EMBRACED WITHIN THE BOUNDARY LINES UPON SAID MAP AND THE RIGHT TO ENTER UPON SAID STRIPS OF LAND FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, AND REPAIRING WATER PIPES AND APPURTENANCES THERETO.
3. THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT, RECONSTRUCT AND MAINTAIN SANITARY SEWERS AND APPURTENANCES THERETO UNDER, ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "SSE," (PUBLIC SANITARY SEWER EASEMENT) THEREON, ALL AS EMBRACED WITHIN THE BOUNDARY LINES UPON SAID MAP AND THE RIGHT TO ENTER UPON SAID STRIPS OF LAND FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, AND REPAIRING SANITARY SEWERS AND APPURTENANCES THERETO.
4. THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER, AN EMERGENCY VEHICLE ACCESS EASEMENT "EVAE", ON, OVER AND ACROSS THOSE CERTAIN STRIPS OF LAND DELINEATED HEREON AND DESIGNATED AS AND EMBRACED WITHIN THE BOUNDARY LINES OF HEREIN EMBODIED MAP FOR THE INGRESS AND EGRESS OF EMERGENCY VEHICLES.

THE REAL PROPERTY DESCRIBED BELOW IS RESERVED FOR PRIVATE PURPOSES AND IS NOT DEDICATED TO THE PUBLIC:

1. THE UNDERSIGNED DOES HEREBY RESERVE TO ITSELF, AND TO THE OWNERS, RESIDENTS, AND OTHERS DESIGNATED BY THE HOMEOWNERS ASSOCIATION, THE PARCELS DESIGNATED AS PARCEL A-R FOR PRIVATE STREET AND ACCESS PURPOSES, PARCEL S-U FOR COMMON OPEN SPACE PURPOSES, SAID PARCELS TO BE OWNED BY THE HOMEOWNERS ASSOCIATION AND MAINTAINED IN ACCORDANCE WITH THE CCR'S GOVERNING THIS TRACT.
2. THE UNDERSIGNED DOES HEREBY RESERVE "PSDE" (PRIVATE STORM DRAIN EASEMENT) FOR THE RIGHT TO CONSTRUCT, RECONSTRUCT AND MAINTAIN PRIVATE STORM DRAIN FACILITIES TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS. SAID EASEMENT SHALL BE GRANTED TO THE HOMEOWNER'S ASSOCIATION BY SEPARATE INSTRUMENT.
3. THE "PRAE," (PRIVATE ACCESS EASEMENT) IS AN EASEMENT RESERVED FOR THE PRIVATE USE OF THE HOMEOWNERS AND RESIDENTS OF TRACT 8689; SAID EASEMENT IS RESERVED FOR THE PURPOSE OF INGRESS AND EGRESS TO THE LOTS WITHIN THE EXTERIOR BOUNDARY LINES OF THE HEREIN EMBODIED MAP; SAID EASEMENTS ARE NOT OFFERED FOR DEDICATION TO THE PUBLIC AND MAINTENANCE, REPAIR, AND/OR REPLACEMENT OF IMPROVEMENTS WITHIN SAID EASEMENT IS THE RESPONSIBILITY OF THE HOMEOWNERS' ASSOCIATION AS DETERMINED BY THE COVENANTS, CONDITIONS, AND RESTRICTIONS GOVERNING TRACT 8689.

THIS MAP SHOWS OR NOTES ALL EASEMENTS, EXISTING OR OF RECORD, WITHIN THE BOUNDARY LINES OF THE HEREIN EMBODIED MAP.

AS OWNER: TH ARROYO VISTA LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: Tony Bosovski
NAME: Tony Bosovski
TITLE: Authorized Agent
DATE: August 6, 2024

OWNER'S ACKNOWLEDGMENT

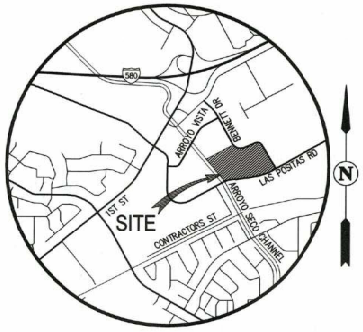
A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF California } SS.
COUNTY OF Contra Costa }

ON August 6, 2024, BEFORE ME, Trevor Brown, A NOTARY PUBLIC, PERSONALLY APPEARED Tony Bosovski, 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:
SIGNATURE: Trevor Brown
NAME (PRINT): Trevor Brown
PRINCIPAL COUNTY OF BUSINESS: Contra Costa
MY COMMISSION NUMBER: 2446864
MY COMMISSION EXPIRES: May 13, 2027



VICINITY MAP

NOT TO SCALE

CLERK OF THE BOARD OF SUPERVISOR'S

STATE OF CALIFORNIA} SS.
COUNTY OF ALAMEDA}

I, ANIKA CAMPBELL-BELTON, CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE, AS CHECKED BELOW, THAT:

☐ AN APPROVED BOND HAS BEEN FILED WITH THE SUPERVISORS OF SAID COUNTY AND STATE IN THE AMOUNT OF $ _____ CONDITIONED FOR THE PAYMENT OF ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES, WHICH ARE NOW A LIEN AGAINST SAID LAND OR ANY PART THEREOF BUT NOT YET PAYABLE, AND WAS DULY APPROVED BY SAID BOARD IN SAID AMOUNT.

☐ ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES HAVE BEEN PAID AS CERTIFIED BY THE TREASURE-TAX COLLECTOR OF THE COUNTY OF ALAMEDA.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS _____
DAY OF _____, 20___.

ANIKA CAMPBELL-BELTON
CLERK OF THE BOARD OF SUPERVISORS
COUNTY OF ALAMEDA
STATE OF CALIFORNIA

BY: _____
DEPUTY COUNTY CLERK

COUNTY RECORDER'S STATEMENT

FILED FOR RECORD THIS _____ DAY OF _____, 20_____, AT _____ .M., IN BOOK _____ OF MAPS, AT PAGES _____, AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY.

FEE: $ _____ PD, SERIES NO. _____

MELISSA WILK
COUNTY RECORDER IN AND FOR THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA

BY: _____
DEPUTY CLERK

JOB NO. 1297-010

SHEET 1 OF 15

BENEFICIARY STATEMENT

WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, AS BENEFICIARY UNDER THAT CERTAIN CONSTRUCTION DEED OF TRUST WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING EXECUTED BY TH ARROYO VISTA LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, IN FAVOR OF TRSTE, INC., A VIRGINIA CORPORATION, FOR THE BENEFIT OF WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, RECORDED AUGUST 9, 2023, AS INSTRUMENT NUMBER 2023090237, OF OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, AS AMENDED BY THAT CERTAIN FIRST AMENDMENT TO CONSTRUCTION DEED OF TRUST WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING, RECORDED JULY 26, 2024, AS INSTRUMENT NUMBER 2024091348, OF OFFICIAL RECORDS OF ALAMEDA COUNTY, CALIFORNIA, DOES HEREBY CONSENT TO THE PREPARATION AND FILING OF THE MAP AND JOINS IN ALL OFFERS OF DEDICATION THEREON.

WELLS FARGO BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT

BY: Cinthya Hanselman

NAME(PRINT): CINTHYA HANSELMAN

TITLE: DIRECTOR

DATE: 08-19-2024

BENEFICIARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF California }
COUNTY OF Orange } S.S.

ON August 19, 2024, BEFORE ME, Frank Gilliam, A NOTARY PUBLIC FOR THE STATE OF CALIFORNIA, PERSONALLY APPEARED Cinthya Hanselman

PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE NAMES 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.

WITNESS MY HAND AND OFFICIAL SEAL:

SIGNATURE: Frank Gilliam

NAME (PRINT): Frank Gilliam

PRINCIPAL COUNTY OF BUSINESS: Orange

MY COMMISSION NUMBER: 2432214

MY COMMISSION EXPIRES: Dec. 23, 2026

CITY SURVEYOR'S STATEMENT

I, DAVID W ENKE, A LICENSED LAND SURVEYOR FOR THE CITY OF LIVERMORE, ALAMEDA COUNTY, STATE OF CALIFORNIA, DO HEREBY STATE THAT I HAVE EXAMINED THIS MAP ENTITLED "TRACT 8689," CITY OF LIVERMORE, ALAMEDA COUNTY, STATE OF CALIFORNIA AND I AM SATISFIED THAT SAID MAP IS TECHNICALLY CORRECT.

David W. Enke

DAVID W. ENKE
L.S. NO. 4071

8/21/24
DATE

LICENSED LAND SURVEYOR
DAVID W. ENKE
4071
STATE OF CALIFORNIA

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION, AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF TRUMARK PROPERTIES AND ARROYO/LIVERMORE BUSINESS PARK, IN DECEMBER 2022.

I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED "VESTING TENTATIVE MAP" AND IS TRUE AND COMPLETE AS SHOWN, THAT THE MONUMENTS WILL BE OF THE CHARACTER AND OCCUPY THE POSITIONS SHOWN IN ACCORDANCE WITH SATISFACTORY ASSURANCE GIVEN BY THE SUBDIVIDER ON OR BEFORE DECEMBER 2027, AND THAT SAID MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

I FURTHER STATE THAT "TRACT 8689," CITY OF LIVERMORE, ALAMEDA COUNTY, CALIFORNIA IS A SUBDIVISION INTO LOTS AND PARCELS OF LAND CONTAINING 13.12 ACRES MORE OR LESS.

8/15/2024
DATE

MARK H. WEHBER, P.L.S.
L.S. NO. 7960

LICENSED LAND SURVEYOR
MARK H. WEHBER
7960
STATE OF CALIFORNIA

CITY ENGINEER'S STATEMENT

I, JOEL WAXDECK, R.C.E. NO. C-049965, ACTING CITY ENGINEER OF THE CITY OF LIVERMORE, ALAMEDA COUNTY, STATE OF CALIFORNIA, HEREBY STATE THAT I HAVE EXAMINED THIS MAP ENTITLED "TRACT 8689," CITY OF LIVERMORE, ALAMEDA COUNTY, STATE OF CALIFORNIA, AND THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE APPROVED VESTING TENTATIVE MAP AND ANY APPROVED AND ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF THE STATE LAWS AND LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE VESTING TENTATIVE MAP HAVE BEEN COMPLIED WITH.

Joel Waxdeck

JOEL WAXDECK, R.C.E. NO. C-049965
CITY ENGINEER, CITY OF LIVERMORE
ALAMEDA COUNTY, CALIFORNIA

8/21/24
DATE

CITY CLERK'S STATEMENT

STATE OF CALIFORNIA} SS.
COUNTY OF ALAMEDA}

I, DEBORAH L. ELAM, ACTING CITY CLERK AND CLERK OF THE CITY COUNCIL OF THE CITY OF LIVERMORE, ALAMEDA COUNTY, STATE OF CALIFORNIA, DO HEREBY STATE THAT THIS MAP ENTITLED "TRACT 8689", CITY OF LIVERMORE, ALAMEDA COUNTY, STATE OF CALIFORNIA WAS PRESENTED TO THE COUNCIL OF THE CITY OF LIVERMORE AT A MEETING THEREOF HELD ON _____, 20___, AND THE COUNCIL DID BY RESOLUTION NO. _____ APPROVE THE MAP AND ACCEPT ON BEHALF OF THE PUBLIC ALL THOSE PARCELS OF LAND, EASEMENTS AND OTHER LEGAL INTERESTS IN LAND OFFERED TO OR FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFER, EXCEPT FOR THE FOLLOWING, WHICH THE COUNCIL DID REJECT AT THIS TIME (RESERVING THE RIGHT TO ACCEPT SAID OFFERS AT A FUTURE DATE, SUBJECT TO GOVERNMENT CODE SECTIONS 66427.2 AND 7050).

PUBLIC UTILITY EASEMENT (PUE)
PUBLIC WATER LINE EASEMENT (WLE)
EMERGENCY VEHICLE ACCESS EASEMENT (EVAE)
PUBLIC SANITARY SEWER EASEMENT (SSE)

ALSO, PURSUANT TO SECTION 66434(G) OF THE SUBDIVISION MAP ACT, THIS MAP SHALL CONSTITUTE THE ABANDONMENT IN ITS ENTIRETY WITHIN THE BOUNDARIES OF THIS MAP;

1. ALL THAT PORTION OF THE 6' WIDE PUBLIC UTILITY EASEMENT OFFERED AND ACCEPTED ON PARCEL MAPS 3756 RECORDED JULY 31, 1984 IN BOOK 146 OF PARCEL MAPS AT PAGES 25-31 LYING CONTIGUOUS TO THE EASTERLY LINE OF LOT 6 AND WITHIN LOTS AS SHOWN AND SO DESIGNATED ON PARCEL MAP 6986 RECORDED MAY 19TH 1997 IN BOOK 229 OF PARCEL MAPS AT PAGES 89-90.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND THIS ___ DAY OF_____, 20___.

_____
DEBORAH L. ELAM, ACTING CITY CLERK AND CLERK OF THE CITY COUNCIL,
CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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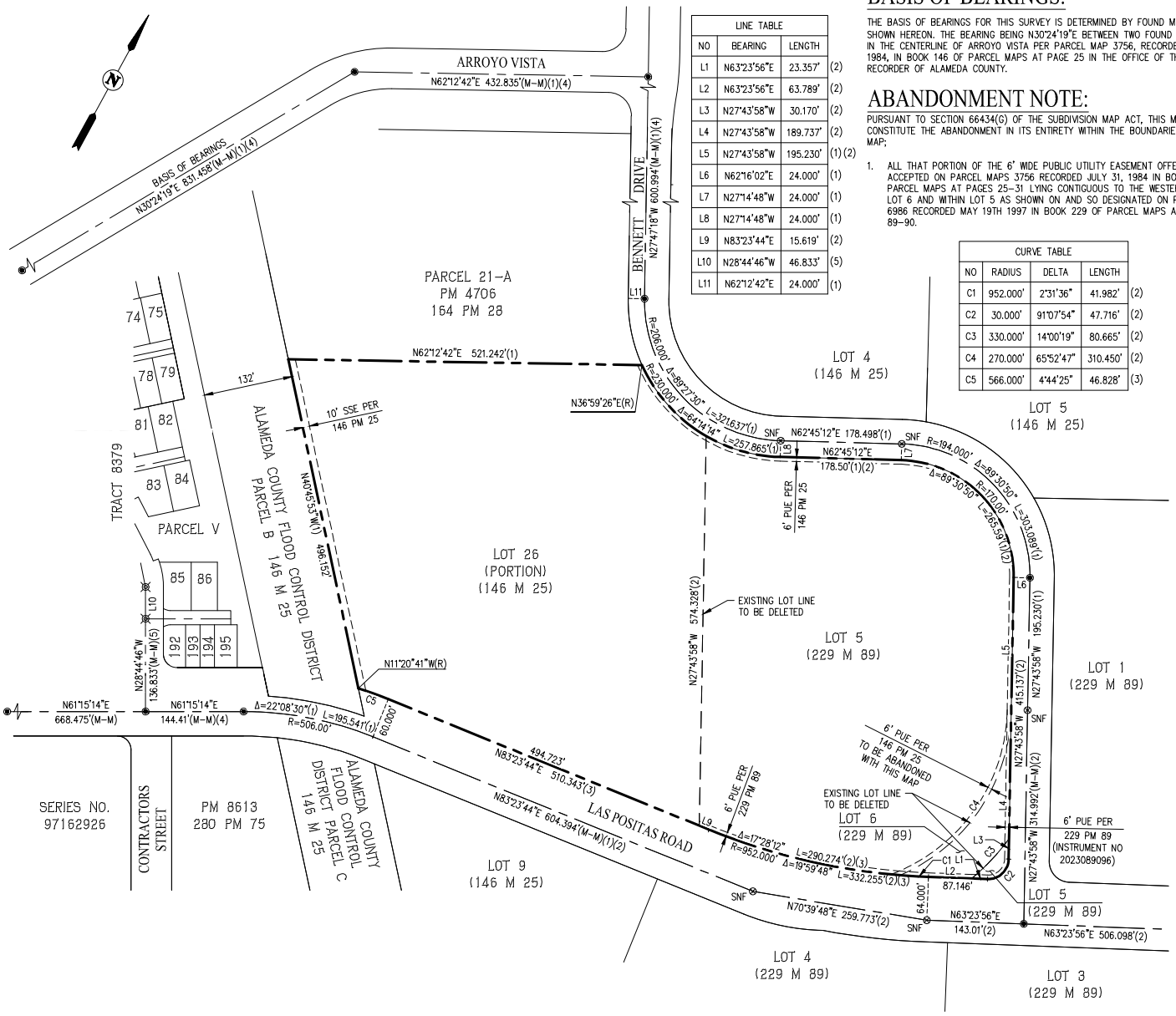
AUGUST 2024

JOB NO. 1297-010

SHEET 2 OF 15



LINE TABLE			
NO	BEARING	LENGTH	
L1	N63°23'56"E	23.357'	(2)
L2	N63°23'56"E	63.789'	(2)
L3	N27°43'58"W	30.170'	(2)
L4	N27°43'58"W	189.737'	(2)
L5	N27°43'58"W	195.230'	(1)(2)
L6	N62°16'02"E	24.000'	(1)
L7	N27°14'48"W	24.000'	(1)
L8	N27°14'48"W	24.000'	(1)
L9	N83°23'44"E	15.619'	(2)
L10	N28°44'46"W	46.833'	(5)
L11	N62°12'42"E	24.000'	(1)

CURVE TABLE				
NO	RADIUS	DELTA	LENGTH	
C1	952.000'	2°31'36"	41.982'	(2)
C2	30.000'	91°07'54"	47.716'	(2)
C3	330.000'	14°00'19"	80.665'	(2)
C4	270.000'	65°52'47"	310.450'	(2)
C5	566.000'	4°44'25"	46.828'	(3)

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS SURVEY IS DETERMINED BY FOUND MONUMENTS SHOWN HEREON. THE BEARING BEING N30°24'19"E BETWEEN TWO FOUND MONUMENTS IN THE CENTERLINE OF ARROYO VISTA PER PARCEL MAP 3756, RECORDED JULY 31, 1984, IN BOOK 146 OF PARCEL MAPS AT PAGE 25 IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

ABANDONMENT NOTE:

PURSUANT TO SECTION 66434(G) OF THE SUBDIVISION MAP ACT, THIS MAP SHALL CONSTITUTE THE ABANDONMENT IN ITS ENTIRETY WITHIN THE BOUNDARIES OF THIS MAP;

1. ALL THAT PORTION OF THE 6' WIDE PUBLIC UTILITY EASEMENT OFFERED AND ACCEPTED ON PARCEL MAPS 3756 RECORDED JULY 31, 1984 IN BOOK 146 OF PARCEL MAPS AT PAGES 25-31 LYING CONTIGUOUS TO THE WESTERLY LINE OF LOT 6 AND WITHIN LOT 5 AS SHOWN ON AND SO DESIGNATED ON PARCEL MAP 6986 RECORDED MAY 19TH 1997 IN BOOK 229 OF PARCEL MAPS AT PAGES 89-90.

LEGEND

	EXISTING SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	MONUMENT TIES
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
(PL-PL)	PROPERTY LINE TO PROPERTY LINE
◉	FOUND STANDARD STREET MONUMENT
⊠	SET STANDARD STREET MONUMENT LS 7960 PER 8379
◎	SET STANDARD STREET MONUMENT
AC	ACRES
EVAE	EMERGENCY VEHICLE ACCESS EASEMENT
LL	LOT LINE
PM	PARCEL MAP
PRAE	PRIVATE ACCESS EASEMENT
PSDE	PRIVATE STORM DRAIN EASEMENT
PUE	PUBLIC UTILITY EASEMENT
R/W	RIGHT OF WAY
SNF	SEARCHED NOT FOUND
SSE	PUBLIC SANITARY SEWER EASEMENT
WLE	PUBLIC WATER LINE EASEMENT

REFERENCES:

(#) INDICATES REFERENCE NUMBER
(1) PARCEL MAP 3756 (146 PM 25)
(2) PARCEL MAP 6986 (229 PM 89)
(3) GRANT DEED (94-176895)
(4) PARCEL MAP 8613 (280 PM 75)
(5) TRACT 8379 (371 M 44)

NOTES:

1. ALL DISTANCES SHOWN IN FOOT AND DECIMALS EQUIVALENTS THEREOF.
2. ALL DISTANCES ARE LEVEL DISTANCES.
3. THE BEARINGS NOT SHOWN ARE PARALLEL OR AT RIGHT ANGLES TO SHOWN BEARINGS.

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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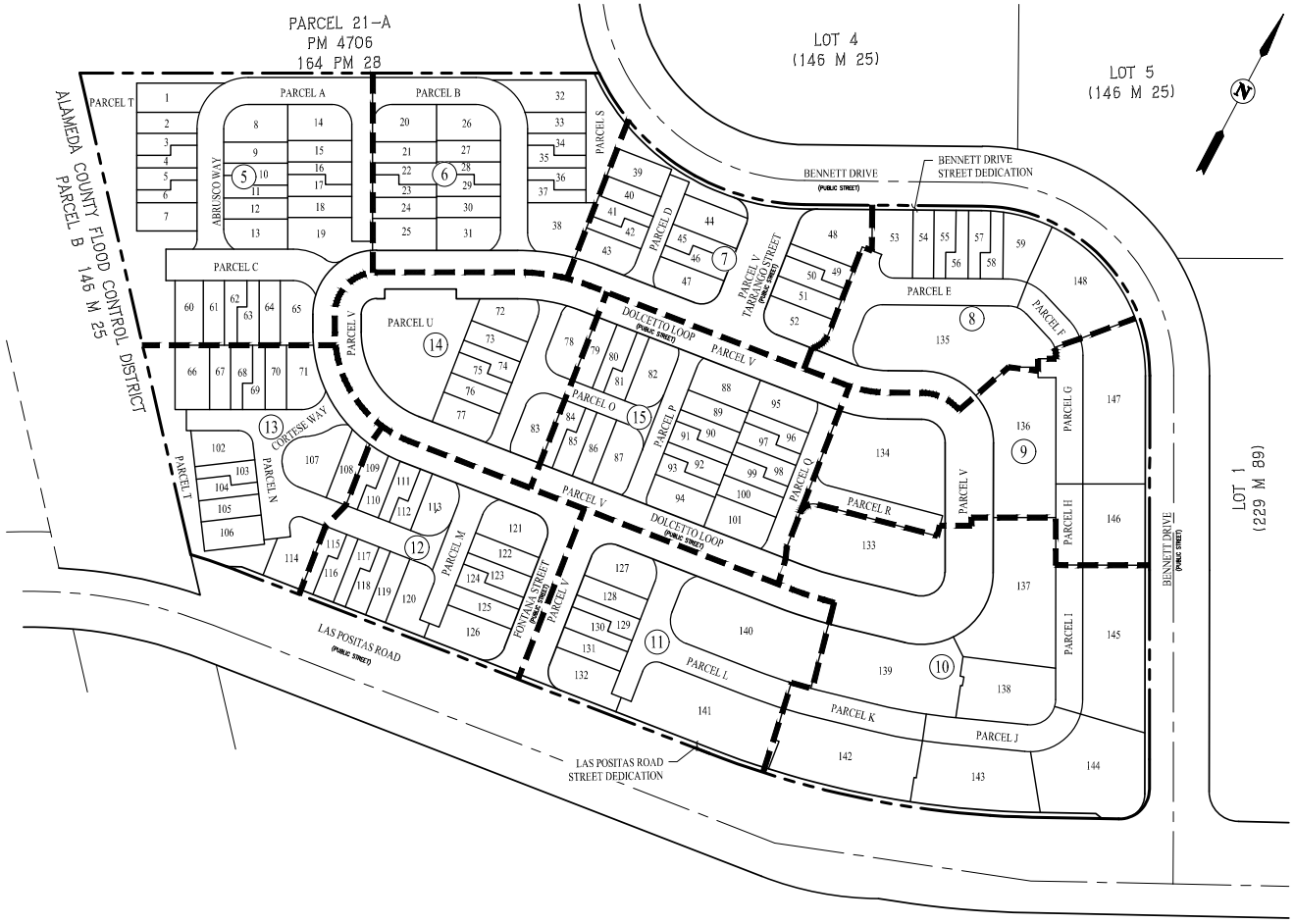
SCALE: 1" = 100' JULY 2024

100' 0' 50' 100' 200' 400'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 3 OF 15



LEGEND

	EXISTING SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	MONUMENT TIES
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
(PL-PL)	PROPERTY LINE TO PROPERTY LINE
◉	FOUND STANDARD STREET MONUMENT
⊗	SET STANDARD STREET MONUMENT LS 7960 PER 8379
◎	SET STANDARD STREET MONUMENT
AC	ACRES
EVAE	EMERGENCY VEHICLE ACCESS EASEMENT
LL	LOT LINE
PM	PARCEL MAP
PRAE	PRIVATE ACCESS EASEMENT
PSDE	PRIVATE STORM DRAIN EASEMENT
PUE	PUBLIC UTILITY EASEMENT
R/W	RIGHT OF WAY
SNF	SEARCHED NOT FOUND
SSE	PUBLIC SANITARY SEWER EASEMENT
WLE	PUBLIC WATER LINE EASEMENT
	SHEET CUT
(5)	SHEET NUMBER

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

REFERENCES
SEE SHEET 3 FOR REFERENCES

NOTES
SEE SHEET 3 FOR NOTES

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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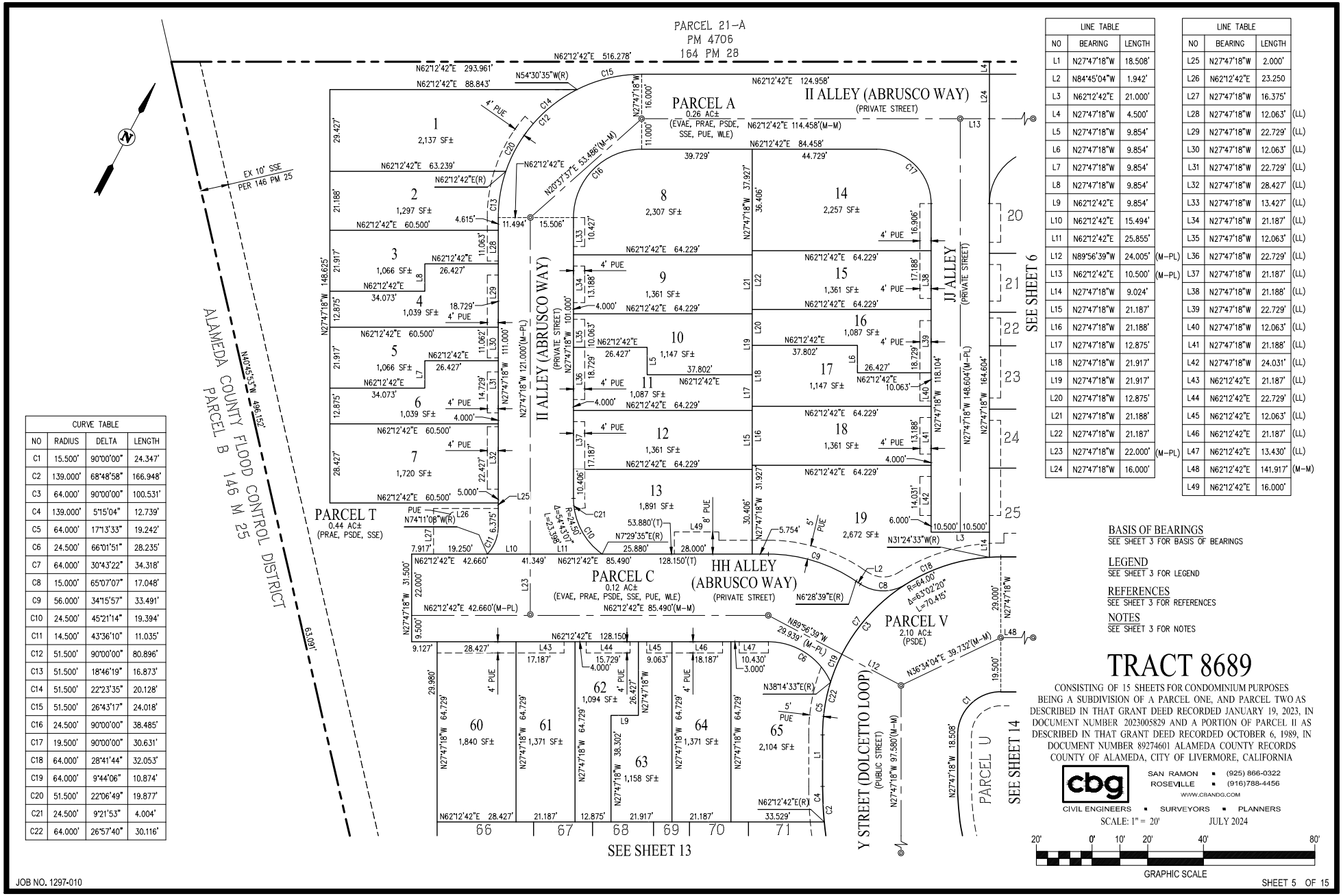
SCALE: 1" = 80' JULY 2024

80' 0' 40' 80' 160' 320'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 4 OF 15



CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	15.500'	90°00'00"	24.347'
C2	139.000'	68°48'58"	166.948'
C3	64.000'	90°00'00"	100.531'
C4	139.000'	5°15'04"	12.739'
C5	64.000'	17°13'33"	19.242'
C6	24.500'	66°01'51"	28.235'
C7	64.000'	30°43'22"	34.318'
C8	15.000'	65°07'07"	17.048'
C9	56.000'	34°15'57"	33.491'
C10	24.500'	45°21'14"	19.394'
C11	14.500'	43°36'10"	11.035'
C12	51.500'	90°00'00"	80.896'
C13	51.500'	18°46'19"	16.873'
C14	51.500'	22°23'35"	20.128'
C15	51.500'	26°43'17"	24.018'
C16	24.500'	90°00'00"	38.485'
C17	19.500'	90°00'00"	30.631'
C18	64.000'	28°41'44"	32.053'
C19	64.000'	9°44'06"	10.874'
C20	51.500'	22°06'49"	19.877'
C21	24.500'	9°21'53"	4.004'
C22	64.000'	26°57'40"	30.116'

LINE TABLE			
NO	BEARING	LENGTH	
L1	N27°47'18"W	18.508'	
L2	N84°45'04"W	1.942'	
L3	N62°12'42"E	21.000'	
L4	N27°47'18"W	4.500'	
L5	N27°47'18"W	9.854'	
L6	N27°47'18"W	9.854'	
L7	N27°47'18"W	9.854'	
L8	N27°47'18"W	9.854'	
L9	N62°12'42"E	9.854'	
L10	N62°12'42"E	15.494'	
L11	N62°12'42"E	25.855'	
L12	N89°56'39"W	24.005'	(M-PL)
L13	N62°12'42"E	10.500'	(M-PL)
L14	N27°47'18"W	9.024'	
L15	N27°47'18"W	21.187'	
L16	N27°47'18"W	21.188'	
L17	N27°47'18"W	12.875'	
L18	N27°47'18"W	21.917'	
L19	N27°47'18"W	21.917'	
L20	N27°47'18"W	12.875'	
L21	N27°47'18"W	21.188'	
L22	N27°47'18"W	21.187'	
L23	N27°47'18"W	22.000'	(M-PL)
L24	N27°47'18"W	16.000'	

LINE TABLE			
NO	BEARING	LENGTH	
L25	N27°47'18"W	2.000'	
L26	N62°12'42"E	23.250	
L27	N27°47'18"W	16.375'	
L28	N27°47'18"W	12.063'	(LL)
L29	N27°47'18"W	22.729'	(LL)
L30	N27°47'18"W	12.063'	(LL)
L31	N27°47'18"W	22.729'	(LL)
L32	N27°47'18"W	28.427'	(LL)
L33	N27°47'18"W	13.427'	(LL)
L34	N27°47'18"W	21.187'	(LL)
L35	N27°47'18"W	12.063'	(LL)
L36	N27°47'18"W	22.729'	(LL)
L37	N27°47'18"W	21.187'	(LL)
L38	N27°47'18"W	21.188'	(LL)
L39	N27°47'18"W	22.729'	(LL)
L40	N27°47'18"W	12.063'	(LL)
L41	N27°47'18"W	21.188'	(LL)
L42	N27°47'18"W	24.031'	(LL)
L43	N62°12'42"E	21.187'	(LL)
L44	N62°12'42"E	22.729'	(LL)
L45	N62°12'42"E	12.063'	(LL)
L46	N62°12'42"E	21.187'	(LL)
L47	N62°12'42"E	13.430'	(LL)
L48	N62°12'42"E	141.917'	(M-M)
L49	N62°12'42"E	16.000'	

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

NOTES
SEE SHEET 3 FOR NOTES

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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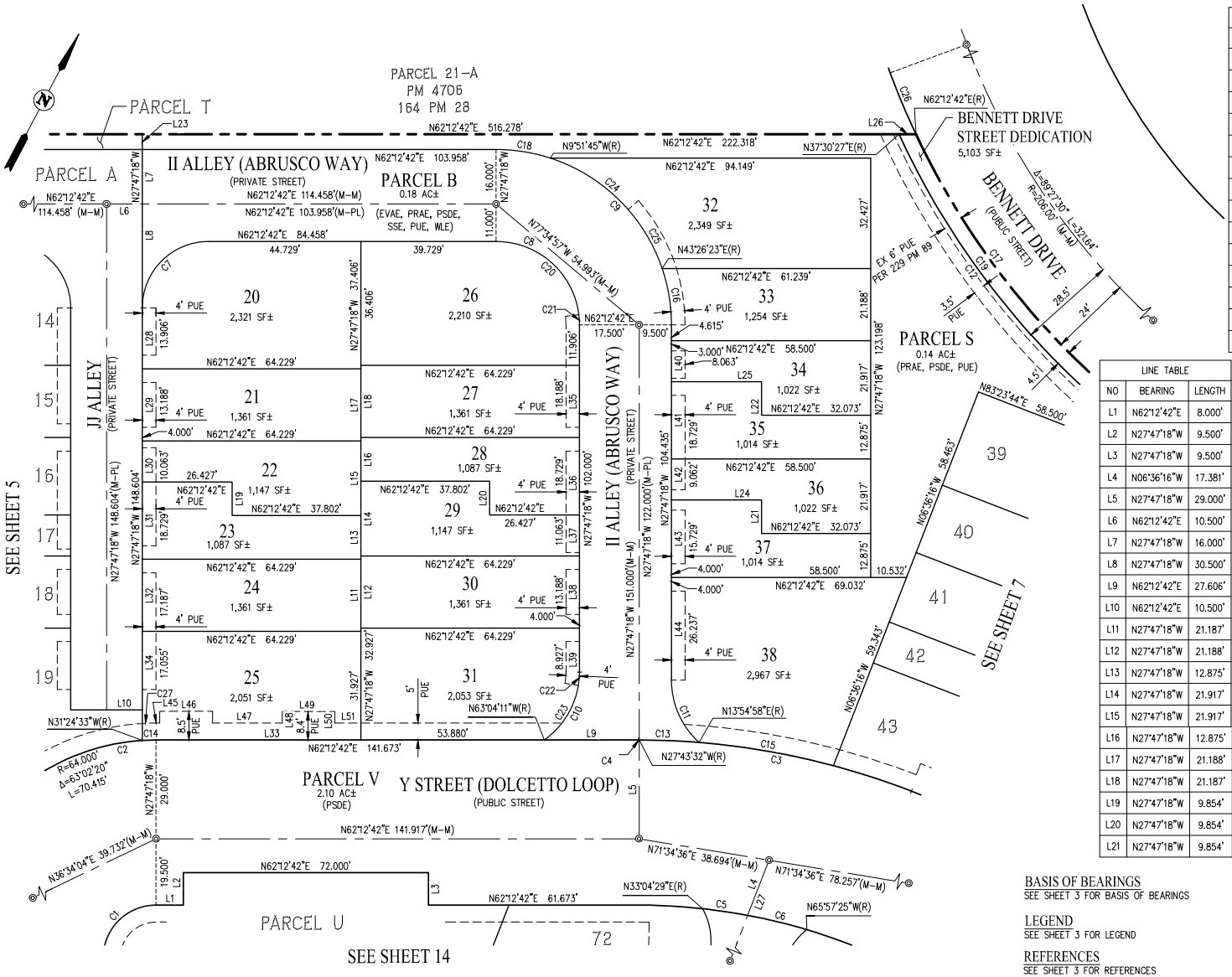
SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 5 OF 15



CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	15.500'	90°00'00"	24.347'
C2	64.000'	90°00'00"	100.531'
C3	222.000'	21°07'16"	81.836'
C4	222.000'	0°03'46"	0.244'
C5	173.500'	10°40'33"	32.328'
C6	173.500'	10°30'29"	31.820'
C7	19.500'	90°00'00"	30.631'
C8	24.500'	90°00'00"	38.485'
C9	51.500'	90°00'00"	80.896'
C10	24.500'	54°43'07"	23.398'
C11	24.500'	48°17'44"	20.651'
C12	234.500'	36°13'42"	148.275'
C13	222.000'	4°34'24"	17.720'
C14	64.000'	3°37'15"	4.044'

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C15	222.000'	10°19'48"	40.025'
C16	51.500'	18°46'19"	16.873'
C17	230.000'	64°14'14"	257.865'
C18	51.500'	17°55'33"	16.112'
C19	234.500'	64°45'15"	265.025'
C20	24.500'	82°58'47"	35.483'
C21	24.500'	7°01'13"	3.002'
C22	24.500'	9°21'53"	4.004'
C23	24.500'	45°21'14"	19.394'
C24	51.500'	30°55'20"	27.794'
C25	51.500'	22°22'48"	20.116'
C26	230.000'	25°13'16"	101.244'
C27	69.000'	3°21'29"	4.044'

LINE TABLE			
NO	BEARING	LENGTH	
L1	N62°12'42"E	8.000'	
L2	N27°47'18"W	9.500'	
L3	N27°47'18"W	9.500'	
L4	N06°36'16"W	17.381'	(M-PL)
L5	N27°47'18"W	29.000'	(M-PL)
L6	N62°12'42"E	10.500'	(M-PL)
L7	N27°47'18"W	16.000'	
L8	N27°47'18"W	30.500'	
L9	N62°12'42"E	27.606'	
L10	N62°12'42"E	10.500'	
L11	N27°47'18"W	21.187'	
L12	N27°47'18"W	21.188'	
L13	N27°47'18"W	12.875'	
L14	N27°47'18"W	21.917'	
L15	N27°47'18"W	21.917'	
L16	N27°47'18"W	12.875'	
L17	N27°47'18"W	21.188'	
L18	N27°47'18"W	21.187'	
L19	N27°47'18"W	9.854'	
L20	N27°47'18"W	9.854'	
L21	N27°47'18"W	9.854'	

LINE TABLE			
NO	BEARING	LENGTH	
L22	N27°47'18"W	9.854'	
L23	N27°47'18"W	4.500'	
L24	N62°12'42"E	26.427'	
L25	N62°12'42"E	26.427'	
L26	N62°12'42"E	4.964'	
L27	N06°36'16"W	93.499'	
L28	N27°47'18"W	17.906'	(M-M)
L29	N27°47'18"W	21.188'	(LL)
L30	N27°47'18"W	12.063'	(LL)
L31	N27°47'18"W	22.729'	(LL)
L32	N27°47'18"W	21.188'	(LL)
L33	N62°12'42"E	60.187'	(LL)
L34	N27°47'18"W	32.055'	(LL)
L35	N27°47'18"W	21.188'	(LL)
L36	N27°47'18"W	22.729'	(LL)

LINE TABLE			
NO	BEARING	LENGTH	
L37	N27°47'18"W	12.063'	(LL)
L38	N27°47'18"W	21.188'	(LL)
L39	N27°47'18"W	12.927'	(LL)
L40	N27°47'18"W	12.063'	(LL)
L41	N27°47'18"W	22.729'	(LL)
L42	N27°47'18"W	12.063'	(LL)
L43	N27°47'18"W	22.729'	(LL)
L44	N27°47'18"W	30.237'	(LL)
L45	N62°12'42"E	1.124'	
L46	N62°12'42"E	15.500'	
L47	N62°12'42"E	20.428'	
L48	N27°47'18"W	3.382'	
L49	N62°12'42"E	15.500'	
L50	N27°47'18"W	3.382'	
L51	N62°12'42"E	7.636'	

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

NOTES
SEE SHEET 3 FOR NOTES

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 6 OF 15

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS
LEGEND
SEE SHEET 3 FOR LEGEND
REFERENCES
SEE SHEET 3 FOR REFERENCES
NOTES
SEE SHEET 3 FOR NOTES

LINE TABLE			
NO	BEARING	LENGTH	
L1	N83°23'44"E	15.269'	(M-M)
L2	N06°36'16"W	18.000'	(M-PL)
L3	N83°23'44"E	19.849'	

LINE TABLE		
NO	BEARING	LENGTH
L4	N83°23'44"E	23.033'
L5	N62°45'12"E	13.495'
L6	N83°23'44"E	9.500'
L7	N83°23'44"E	10.250'

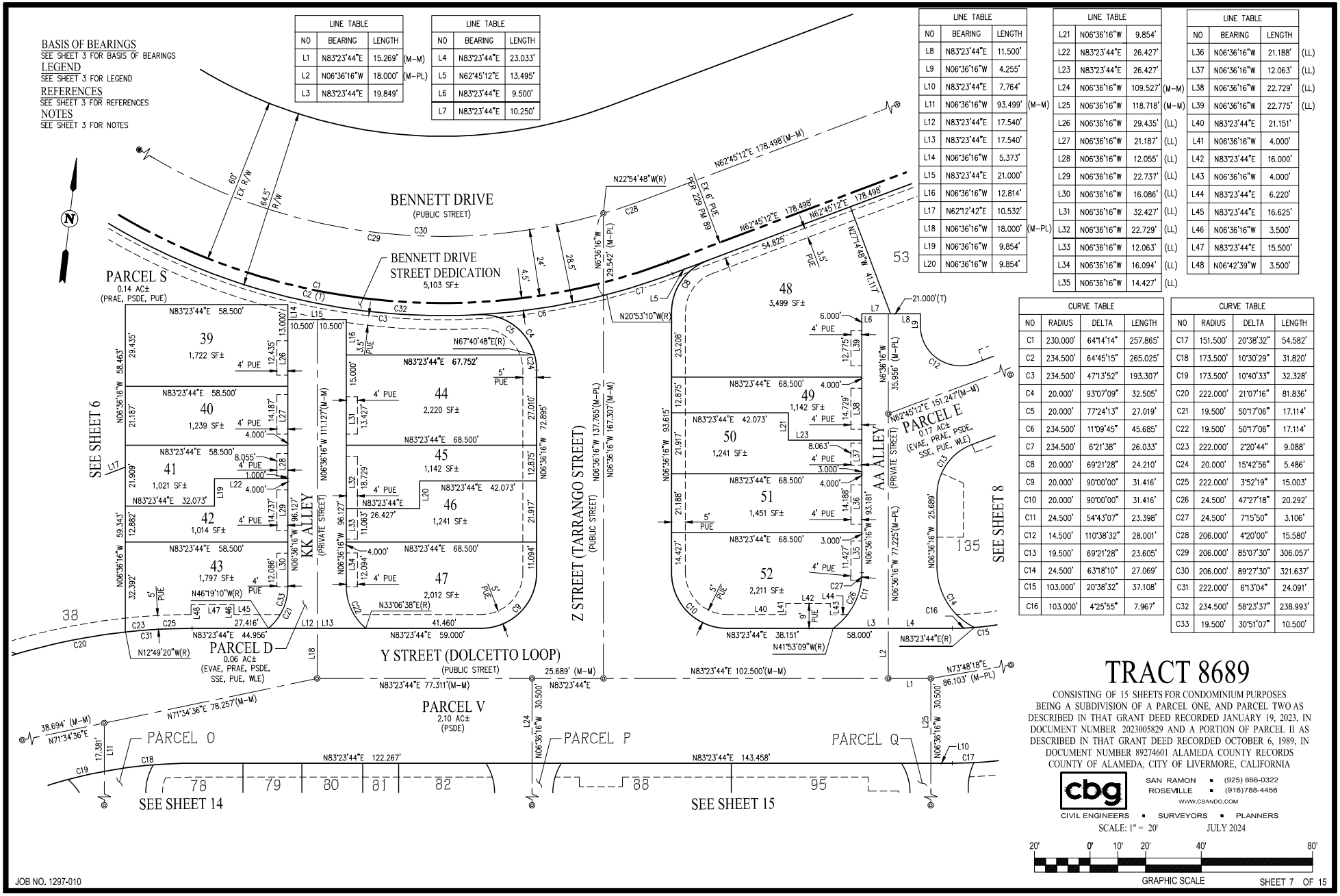
LINE TABLE			
NO	BEARING	LENGTH	
L8	N83°23'44"E	11.500'	
L9	N06°36'16"W	4.255'	
L10	N83°23'44"E	7.764'	
L11	N06°36'16"W	93.499'	(M-M)
L12	N83°23'44"E	17.540'	
L13	N83°23'44"E	17.540'	
L14	N06°36'16"W	5.373'	
L15	N83°23'44"E	21.000'	
L16	N06°36'16"W	12.814'	
L17	N62°12'42"E	10.532'	
L18	N06°36'16"W	18.000'	(M-PL)
L19	N06°36'16"W	9.854'	
L20	N06°36'16"W	9.854'	

LINE TABLE			
L21	N06°36'16"W	9.854'	
L22	N83°23'44"E	26.427'	
L23	N83°23'44"E	26.427'	
L24	N06°36'16"W	109.527'	(M-M)
L25	N06°36'16"W	118.718'	(M-M)
L26	N06°36'16"W	29.435'	(LL)
L27	N06°36'16"W	21.187'	(LL)
L28	N06°36'16"W	12.055'	(LL)
L29	N06°36'16"W	22.737'	(LL)
L30	N06°36'16"W	16.086'	(LL)
L31	N06°36'16"W	32.427'	(LL)
L32	N06°36'16"W	22.729'	(LL)
L33	N06°36'16"W	12.063'	(LL)
L34	N06°36'16"W	16.094'	(LL)
L35	N06°36'16"W	14.427'	(LL)

LINE TABLE			
NO	BEARING	LENGTH	
L36	N06°36'16"W	21.188'	(LL)
L37	N06°36'16"W	12.063'	(LL)
L38	N06°36'16"W	22.729'	(LL)
L39	N06°36'16"W	22.775'	(LL)
L40	N83°23'44"E	21.151'	
L41	N06°36'16"W	4.000'	
L42	N83°23'44"E	16.000'	
L43	N06°36'16"W	4.000'	
L44	N83°23'44"E	6.220'	
L45	N83°23'44"E	16.625'	
L46	N06°36'16"W	3.500'	
L47	N83°23'44"E	15.500'	
L48	N06°42'39"W	3.500'	

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	230.000'	64°14'14"	257.865'
C2	234.500'	64°45'15"	265.025'
C3	234.500'	47°13'52"	193.307'
C4	20.000'	93°07'09"	32.505'
C5	20.000'	77°24'13"	27.019'
C6	234.500'	11°09'45"	45.685'
C7	234.500'	6°21'38"	26.033'
C8	20.000'	69°21'28"	24.210'
C9	20.000'	90°00'00"	31.416'
C10	20.000'	90°00'00"	31.416'
C11	24.500'	54°43'07"	23.398'
C12	14.500'	110°38'32"	28.001'
C13	19.500'	69°21'28"	23.605'
C14	24.500'	63°18'10"	27.069'
C15	103.000'	20°38'32"	37.108'
C16	103.000'	4°25'55"	7.967'

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C17	151.500'	20°38'32"	54.582'
C18	173.500'	10°30'29"	31.820'
C19	173.500'	10°40'33"	32.328'
C20	222.000'	21°07'16"	81.836'
C21	19.500'	50°17'06"	17.114'
C22	19.500'	50°17'06"	17.114'
C23	222.000'	2°20'44"	9.088'
C24	20.000'	15°42'56"	5.486'
C25	222.000'	3°52'19"	15.003'
C26	24.500'	47°27'18"	20.292'
C27	24.500'	7°15'50"	3.106'
C28	206.000'	4°20'00"	15.580'
C29	206.000'	85°07'30"	306.057'
C30	206.000'	89°27'30"	321.637'
C31	222.000'	6°13'04"	24.091'
C32	234.500'	58°23'37"	238.993'
C33	19.500'	30°51'07"	10.500'



TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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SCALE: 1" = 20'
JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

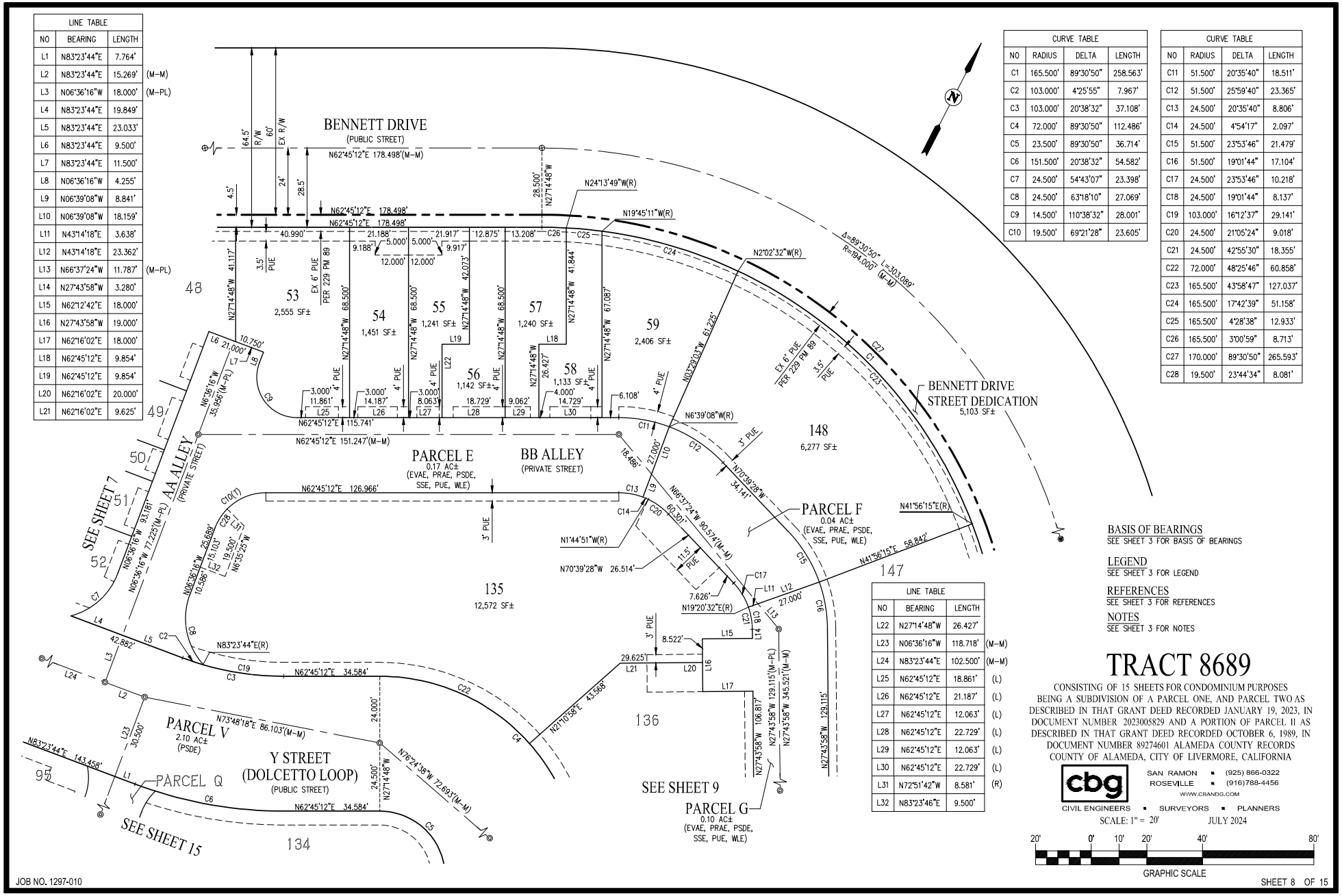
JOB NO. 1297-010

SHEET 7 OF 15

LINE TABLE			
NO	BEARING	LENGTH	
L1	N83°23'44"E	7.764'	
L2	N83°23'44"E	15.269'	(M-M)
L3	N06°36'16"W	18.000'	(M-PL)
L4	N83°23'44"E	19.849'	
L5	N83°23'44"E	23.033'	
L6	N83°23'44"E	9.500'	
L7	N83°23'44"E	11.500'	
L8	N06°36'16"W	4.255'	
L9	N06°39'08"W	8.841'	
L10	N06°39'08"W	18.159'	
L11	N43°14'18"E	3.638'	
L12	N43°14'18"E	23.362'	
L13	N66°37'24"W	11.787'	(M-PL)
L14	N27°43'58"W	3.280'	
L15	N62°12'42"E	18.000'	
L16	N27°43'58"W	19.000'	
L17	N62°16'02"E	18.000'	
L18	N62°45'12"E	9.854'	
L19	N62°45'12"E	9.854'	
L20	N62°16'02"E	20.000'	
L21	N62°16'02"E	9.625'	

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	165.500'	89°30'50"	258.563'
C2	103.000'	4°25'55"	7.967'
C3	103.000'	20°38'32"	37.108'
C4	72.000'	89°30'50"	112.486'
C5	23.500'	89°30'50"	36.714'
C6	151.500'	20°38'32"	54.582'
C7	24.500'	54°43'07"	23.398'
C8	24.500'	63°18'10"	27.069'
C9	14.500'	110°38'32"	28.001'
C10	19.500'	69°21'28"	23.605'

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C11	51.500'	20°35'40"	18.511'
C12	51.500'	25°59'40"	23.365'
C13	24.500'	20°35'40"	8.806'
C14	24.500'	4°54'17"	2.097'
C15	51.500'	23°53'46"	21.479'
C16	51.500'	19°01'44"	17.104'
C17	24.500'	23°53'46"	10.218'
C18	24.500'	19°01'44"	8.137'
C19	103.000'	16°12'37"	29.141'
C20	24.500'	21°05'24"	9.018'
C21	24.500'	42°55'30"	18.355'
C22	72.000'	48°25'46"	60.858'
C23	165.500'	43°58'47"	127.037'
C24	165.500'	17°42'39"	51.158'
C25	165.500'	4°28'38"	12.933'
C26	165.500'	3°00'59"	8.713'
C27	170.000'	89°30'50"	265.593'
C28	19.500'	23°44'34"	8.081'



LINE TABLE			
NO	BEARING	LENGTH	
L22	N27°14'48"W	26.427'	
L23	N06°36'16"W	118.718'	(M-M)
L24	N83°23'44"E	102.500'	(M-M)
L25	N62°45'12"E	18.861'	(L)
L26	N62°45'12"E	21.187'	(L)
L27	N62°45'12"E	12.063'	(L)
L28	N62°45'12"E	22.729'	(L)
L29	N62°45'12"E	12.063'	(L)
L30	N62°45'12"E	22.729'	(L)
L31	N72°51'42"W	8.581'	(R)
L32	N83°23'46"E	9.500'	

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

NOTES
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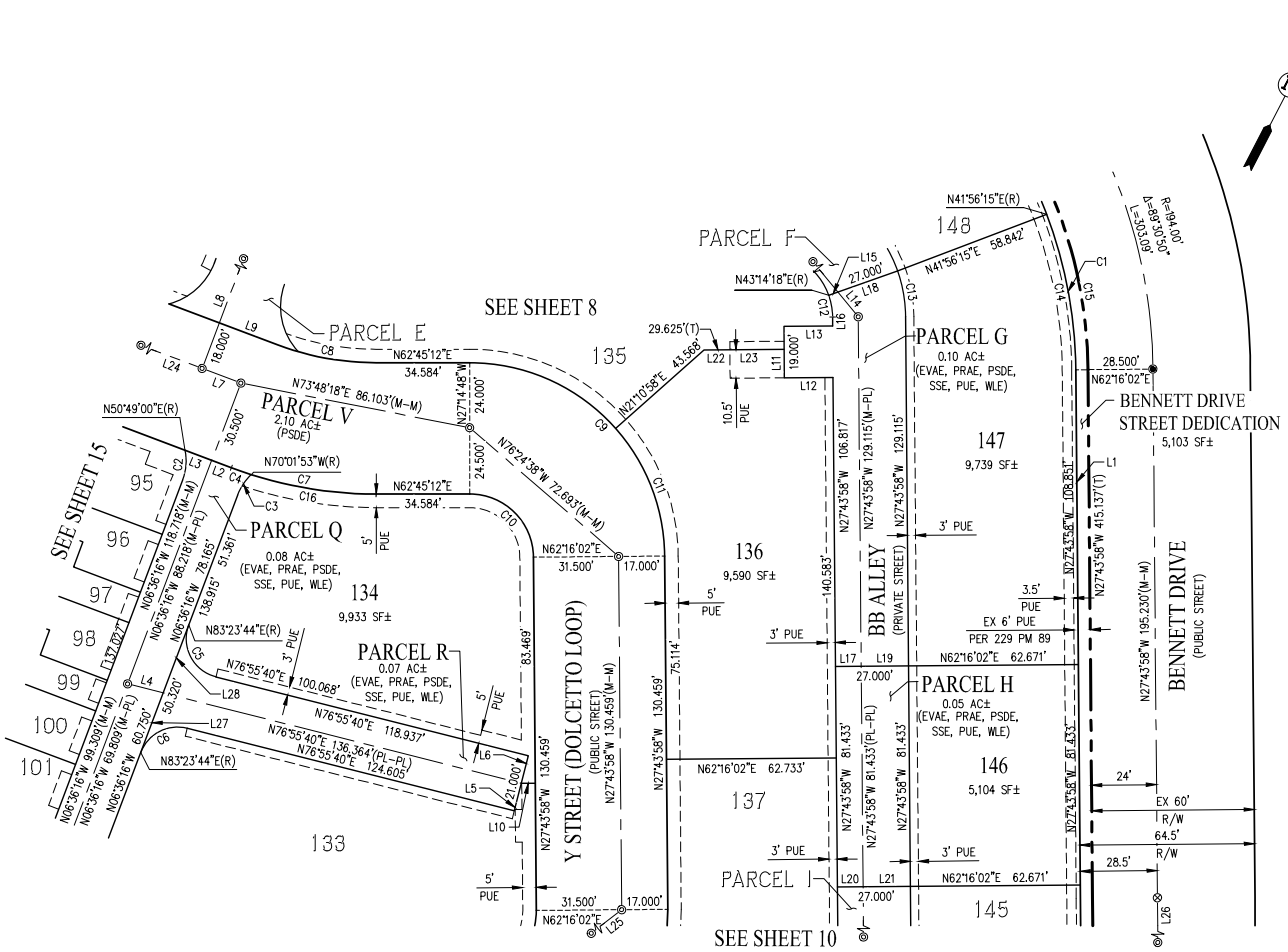
SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 8 OF 15


SEE SHEET 8
SEE SHEET 15
SEE SHEET 10
PARCEL E
PARCEL V
2.10 AC±
(PSDE)
PARCEL Q
0.08 AC±
(EVAE, PRAE, PSDE, SSE, PUE, WLE)
PARCEL R
0.07 AC±
(EVAE, PRAE, PSDE, SSE, PUE, WLE)
PARCEL F
PARCEL G
0.10 AC±
(EVAE, PRAE, PSDE, SSE, PUE, WLE)
PARCEL H
0.05 AC±
(EVAE, PRAE, PSDE, SSE, PUE, WLE)
PARCEL I
BENNETT DRIVE
STREET DEDICATION
5,103 SF±
Y STREET (DOLCETTO LOOP)
(PUBLIC STREET)
BB ALLEY
(PRIVATE STREET)
BENNETT DRIVE
(PUBLIC STREET)
133
134
9,933 SF±
135
136
9,590 SF±
137
145
146
5,104 SF±
147
9,739 SF±
148
95
96
97
98
99
100
101
N27°43'58"W 420.148' (T)
N83°23'44"E 7.764'
N83°23'44"E 10.568'
N76°55'40"E 13.586' (M-PL)
N13°04'20"W 10.500'
N83°23'44"E 15.269' (M-M)
N06°35'18"W 95.235' (M-PL)
N83°23'44"E 23.033'
N62°16'02"E 5.180'
N27°43'58"W 10.478'
N62°16'02"E 18.000'
N62°12'42"E 18.000'
N66°37'24"W 11.787' (M-PL)
N43°14'18"E 3.638'
N27°43'58"W 3.280'
N62°16'02"E 9.500'
N43°14'18"E 23.362'
N62°16'02"E 17.500'
N62°16'02"E 9.500'
N62°16'02"E 17.500'
N62°16'02"E 9.625'
N62°16'02"E 20.000'
N83°23'44"E 102.500' (M-M)
N24°50'03"E 84.800' (M-M)
N27°43'58"W 314.992' (M-M)
N06°36'16"W 23.516'
N06°36'16"W 26.804'
R=194.00'
Δ=89°30'50"
L=303.09'
EX 6' PUE
PER 229 PM 89
EX 60'
R/W
64.5'
28.5'
24'
3' PUE
3.5' PUE
5' PUE
10.5' PUE
N62°16'02"E 62.671'
N62°16'02"E 62.733'
N27°43'58"W 415.137'(T)
N27°43'58"W 195.230'(M-M)
N27°43'58"W 109.851'
N27°43'58"W 130.459'
N27°43'58"W 129.115'(M-PL)
N27°43'58"W 106.817'
N27°43'58"W 140.583'
N27°43'58"W 81.433'
N27°43'58"W 81.433'(PL-PL)
N27°43'58"W 130.459'(M-M)
N27°43'58"W 83.469'
N27°43'58"W 75.114'
N62°16'02"E 31.500'
N62°16'02"E 17.000'
N62°16'02"E 28.500'
N41°56'15"E(R)
N41°56'15"E 58.842'
N43°14'18"E(R)
N21°10'58"E 43.568'
29.625'(T)
N73°48'18"E 86.103'(M-M)
N76°54'38"W 72.693'(M-M)
N50°49'00"E(R)
N70°01'53"W(R)
N83°23'44"E(R)
N76°55'40"E 100.068'
N76°55'40"E 118.937'
N76°55'40"E 136.364'(PL-PL)
N76°55'40"E 124.605'
N06°36'16"W 118.718'(M-M)
N06°36'16"W 88.218'(M-PL)
N06°36'16"W 78.165'
N06°36'16"W 138.915'
N06°36'16"W 137.002'
N06°36'16"W 99.309'(M-M)
N06°36'16"W 69.809'(M-PL)
N06°36'16"W 60.750'
N06°36'16"W 50.320'
N62°45'12"E 34.584'
N27°14'48"W 24.000'
N76°54'38"W 24.500'
N62°16'02"E 62.671'
N62°16'02"E 62.733'
N62°16'02"E 31.500'
N62°16'02"E 17.000'
N62°16'02"E 31.500'
N62°16'02"E 17.000'
N62°16'02"E 62.671'
N62°16'02"E 28.500'
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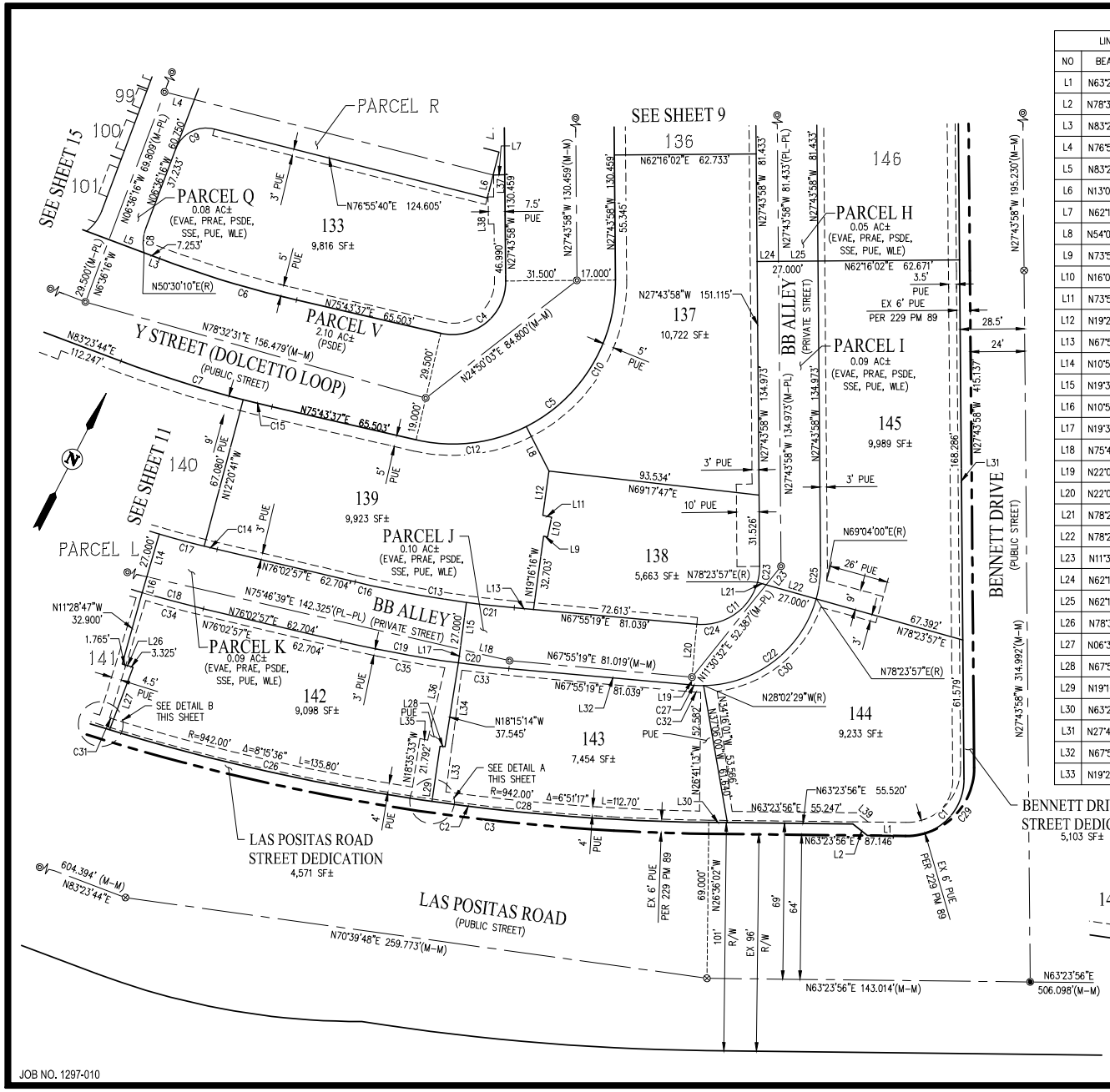
N62°16'02"E 27.000'
N62°16'02"E 27.000'
N62°16'02"E 27

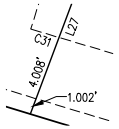


LINE TABLE			
NO	BEARING	LENGTH	
L1	N63°23'56"E	17.566'	
L2	N78°33'33"W	8.114'	
L3	N83°23'44"E	23.880'	
L4	N76°55'40"E	13.586'	(M-PL)
L5	N83°23'44"E	16.626'	
L6	N13°04'20"W	10.500'	
L7	N62°16'02"E	5.180'	
L8	N54°09'22"W	22.161'	
L9	N73°53'24"E	1.803'	
L10	N16°06'36"W	9.000'	
L11	N73°53'24"E	3.920'	
L12	N19°21'04"W	19.816'	
L13	N67°55'19"E	8.426'	
L14	N10°56'06"W	19.710'	
L15	N19°39'07"W	20.904'	
L16	N10°56'06"W	7.290'	
L17	N19°39'07"W	6.096'	
L18	N75°46'39"E	22.431'	(M-PL)
L19	N22°04'41"W	3.500'	
L20	N22°04'41"W	23.500'	
L21	N78°23'57"E	3.972'	
L22	N78°23'57"E	23.028'	
L23	N11°30'32"E	10.573'	(M-PL)
L24	N62°16'02"E	9.500'	
L25	N62°16'02"E	17.500'	
L26	N78°31'13"E	5.090'	
L27	N06°36'16"W	29.620'	
L28	N67°55'19"E	2.329'	
L29	N19°10'02"W	24.675'	
L30	N63°23'56"E	8.268'	
L31	N27°43'58"W	420.148'	
L32	N67°55'19"E	81.039'	
L33	N19°29'45"W	21.566'	

LINE TABLE		
NO	BEARING	LENGTH
L34	N19°51'34"W	32.775'
L35	N76°02'57"E	3.525'
L36	N13°57'03"W	32.934'
L37	N27°43'55"W	9.714'
L38	N27°43'58"W	12.000'
L39	N78°33'33"W	6.491'

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	25.000'	91°07'54"	39.764'
C2	947.000'	19°59'48"	330.510'
C3	952.000'	19°59'48"	332.255'
C4	23.500'	103°27'35"	42.434'
C5	72.000'	103°27'35"	130.011'
C6	473.500'	7°40'07"	63.374'
C7	522.000'	7°40'07"	69.865'
C8	19.500'	32°53'34"	11.195'
C9	14.500'	83°31'56"	21.140'
C10	72.000'	63°34'36"	79.893'
C11	25.500'	95°39'17"	42.572'
C12	72.000'	39°53'00"	50.119'
C13	503.500'	8°07'38"	71.420'
C14	503.500'	0°40'58"	5.999'
C15	522.000'	1°26'22"	13.114'
C16	503.500'	5°42'04"	50.099'
C17	503.500'	3°00'57"	26.502'
C18	530.503'	3°00'57"	27.923'

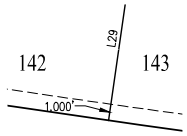
CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C19	530.500'	5°42'04"	52.786'
C20	530.500'	2°25'34"	22.464'
C21	503.500'	2°25'34"	21.321'
C22	52.500'	73°33'34"	67.402'
C23	25.500'	16°07'55"	7.180'
C24	25.500'	79°31'22"	35.392'
C25	52.500'	16°07'55"	14.782'
C26	947.000'	8°51'16"	146.348'
C27	52.500'	5°57'48"	5.464'
C28	947.000'	4°54'26"	81.108'
C29	30.000'	78°04'11"	40.877'
C30	55.500'	64°14'07"	62.222'
C31	942.000'	0°06'38"	1.816'
C32	55.500'	4°36'32"	4.464'
C33	533.500'	2°13'07"	20.659'
C34	533.500'	2°44'49"	25.577'
C35	533.500'	5°05'29"	47.408'



DETAIL B

SCALE: 1" = 5'

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS
LEGEND
SEE SHEET 3 FOR LEGEND
REFERENCES
SEE SHEET 3 FOR REFERENCES
NOTES
SEE SHEET 3 FOR NOTES



DETAIL A

SCALE: 1" = 5'

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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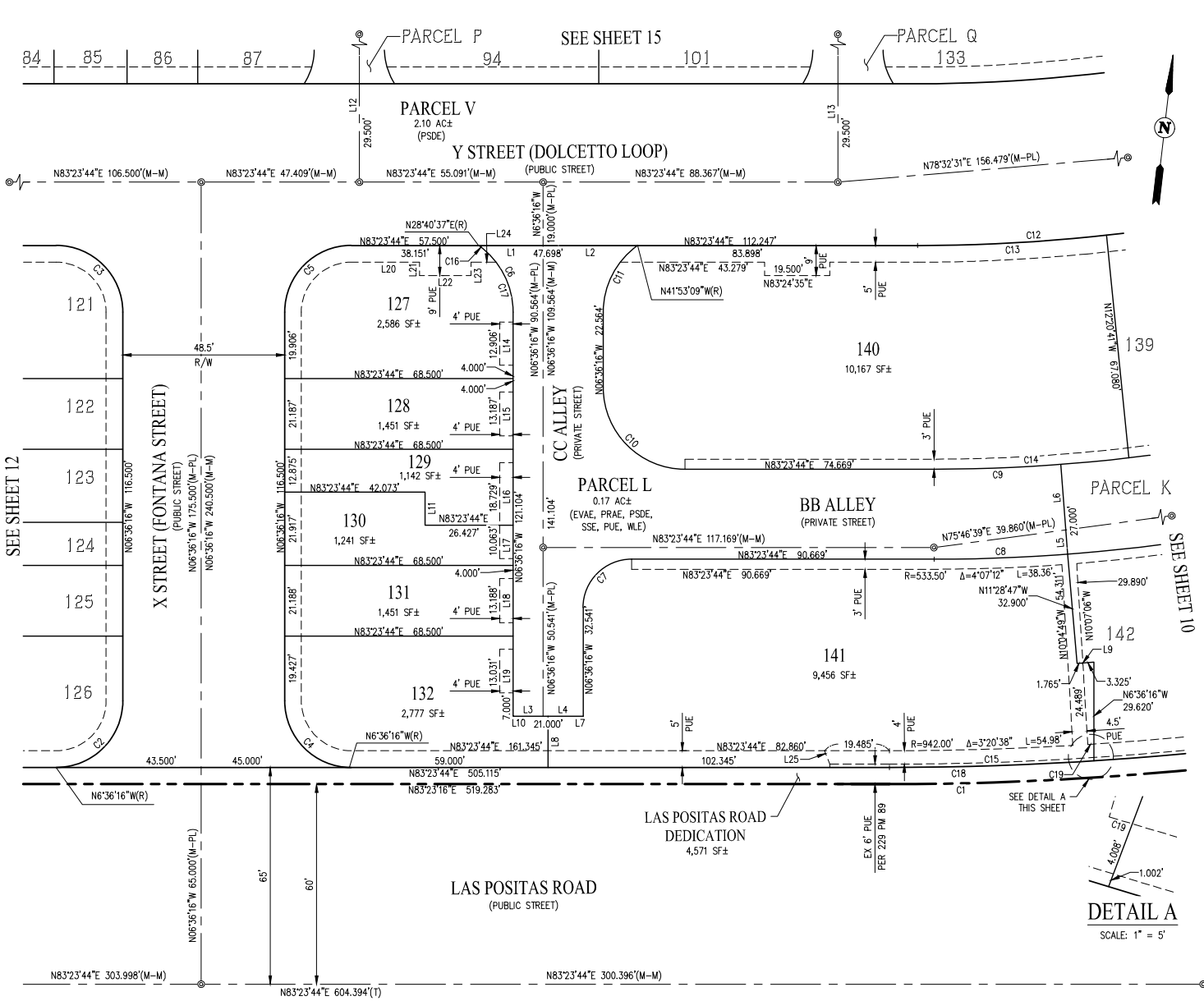
SCALE: 1" = 30' JULY 2024

30' 0' 15' 30' 60' 120'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 10 OF 15



LINE TABLE			
NO	BEARING	LENGTH	
L1	N83°23'44"E	19.349'	
L2	N83°23'44"E	28.349'	
L3	N83°23'44"E	9.000'	
L4	N83°23'44"E	12.000'	
L5	N10°56'06"W	7.290'	
L6	N10°56'06"W	19.710'	
L7	N83°23'44"E	10.500'	
L8	N06°36'16"W	15.396'	
L9	N78°31'13"E	5.090'	
L10	N83°23'44"E	10.500'	
L11	N06°36'16"W	9.854'	
L12	N06°36'16"W	108.500'	
L13	N06°36'16"W	99.309'	
L14	N06°36'16"W	19.906'	(LL)
L15	N06°36'16"W	21.187'	(LL)
L16	N06°36'16"W	22.729'	(LL)
L17	N06°36'16"W	12.063'	(LL)
L18	N06°36'16"W	21.188'	(LL)
L19	N06°36'16"W	24.031'	(LL)
L20	N83°23'44"E	24.160'	
L21	N06°36'16"W	4.000'	
L22	N83°23'44"E	16.329'	
L23	N06°36'16"W	4.000'	
L24	N83°23'44"E	7.459'	
L25	N27°43'58"W	4.288'	

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	952.000'	19°59'48"	332.255'
C2	20.000'	90°00'00"	31.416'
C3	20.000'	90°00'00"	31.416'
C4	20.000'	90°00'00"	31.416'
C5	20.000'	90°00'00"	31.416'
C6	24.500'	54°43'07"	23.398'
C7	14.500'	90°00'00"	22.777'
C8	530.500'	4°19'50"	40.097'
C9	503.500'	4°19'50"	38.056'
C10	24.500'	90°00'00"	38.485'
C11	24.500'	54°43'07"	23.398'
C12	522.000'	7°40'07"	69.865'
C13	522.000'	6°13'45"	56.751'
C14	503.500'	6°39'49"	58.559'
C15	947.000'	3°42'30"	61.294'
C16	24.500'	16°58'00"	7.255'
C17	24.500'	37°45'07"	16.143'
C18	947.000'	19°59'48"	330.510'
C19	942.000'	0°06'38"	1.816'

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

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SEE SHEET 3 FOR NOTES

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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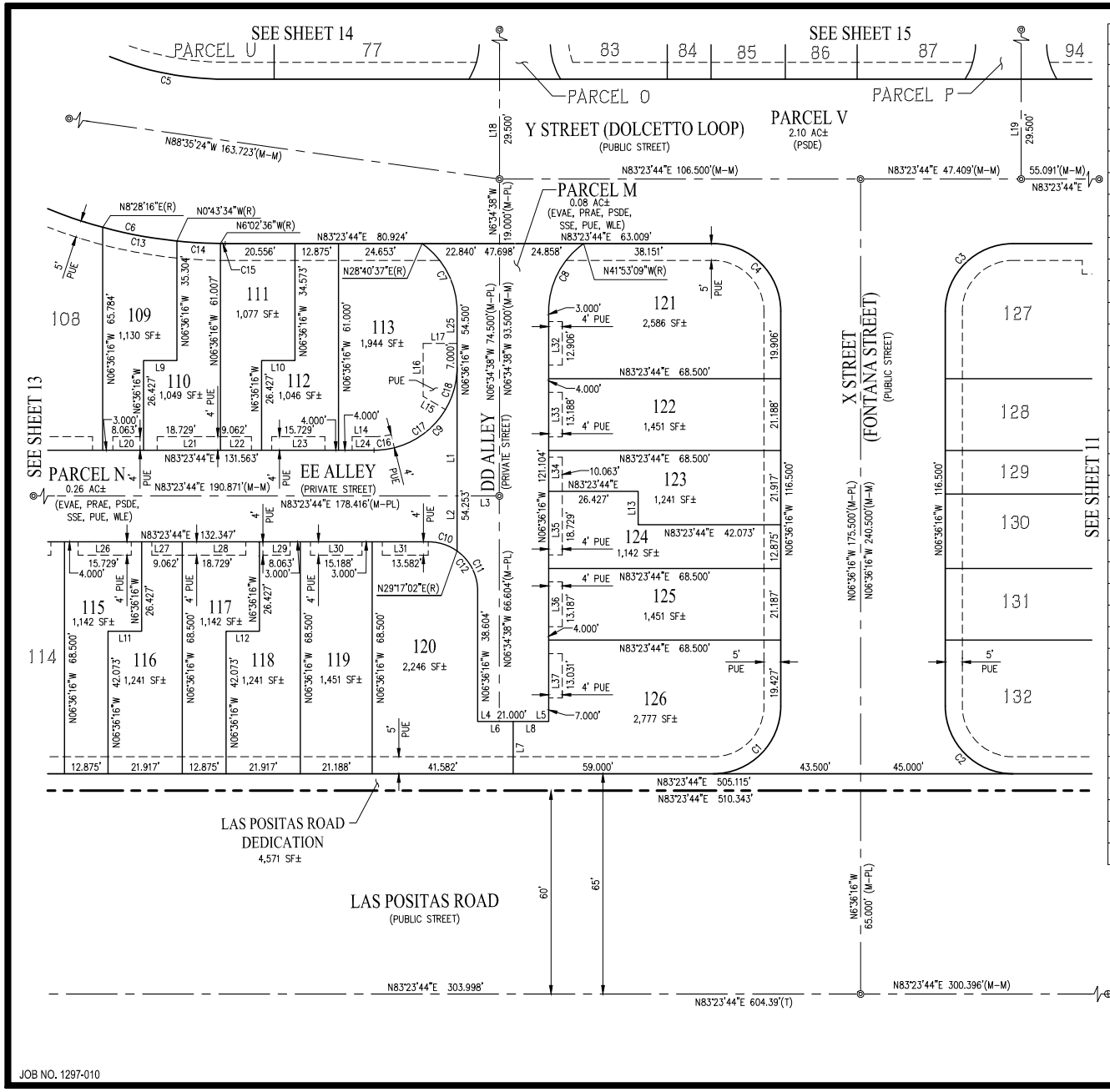
SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 11 OF 15



LINE TABLE			
NO	BEARING	LENGTH	
L1	N06°36'16"W	38.000'	
L2	N06°36'16"W	16.253'	
L3	N83°23'44"E	12.456'	(M-PL)
L4	N83°23'44"E	6.424'	
L5	N83°23'44"E	14.576'	
L6	N83°23'44"E	10.500'	
L7	N06°36'16"W	15.396'	
L8	N83°23'44"E	10.500'	
L9	N83°23'44"E	9.854'	
L10	N83°23'44"E	9.854'	
L11	N83°23'44"E	9.854'	
L12	N83°23'44"E	9.854'	
L13	N06°36'16"W	9.854'	
L14	N83°23'44"E	6.502'	
L15	N65°50'03"W	7.624'	(R)
L16	N06°36'16"W	15.634'	
L17	N83°23'44"E	10.000'	
L18	N06°36'16"W	108.500'	(M-M)
L19	N06°36'16"W	108.500'	(M-M)
L20	N83°23'44"E	12.063'	(LL)
L21	N83°23'44"E	22.729'	(LL)
L22	N83°23'44"E	12.062'	(LL)
L23	N83°23'44"E	22.729'	(LL)
L24	N83°23'44"E	10.502'	(LL)
L25	N06°36'16"W	16.500'	(LL)
L26	N83°23'44"E	22.729'	(LL)
L27	N83°23'44"E	12.062'	(LL)
L28	N83°23'44"E	22.729'	(LL)
L29	N83°23'44"E	12.063'	(LL)
L30	N83°23'44"E	21.188'	(LL)
L31	N83°23'44"E	16.582'	(LL)
L32	N06°36'16"W	19.906'	(LL)
L33	N06°36'16"W	21.188'	(LL)
L34	N06°36'16"W	12.063'	(LL)
L35	N06°36'16"W	22.729'	(LL)
L36	N06°36'16"W	21.187'	(LL)
L37	N06°36'16"W	24.031'	(LL)

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	20.000'	90°00'00"	31.416'
C2	20.000'	90°00'00"	31.416'
C3	20.000'	90°00'00"	31.416'
C4	20.000'	90°00'00"	31.416'
C5	90.500'	68°48'58"	108.697'
C6	139.000'	39°13'05"	95.144'
C7	24.500'	54°43'07"	23.398'
C8	24.500'	54°43'07"	23.398'
C9	24.500'	90°00'00"	38.485'
C10	14.500'	35°53'18"	9.082'
C11	14.500'	54°06'42"	13.694'
C12	14.500'	90°00'00"	22.777'
C13	139.000'	9°11'50"	22.312'
C14	139.000'	5°19'03"	12.900'
C15	139.000'	0°33'40"	1.361'
C16	24.500'	14°04'01"	6.015'
C17	24.500'	45°09'46"	19.312'
C18	24.500'	30°46'13"	13.158'

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

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TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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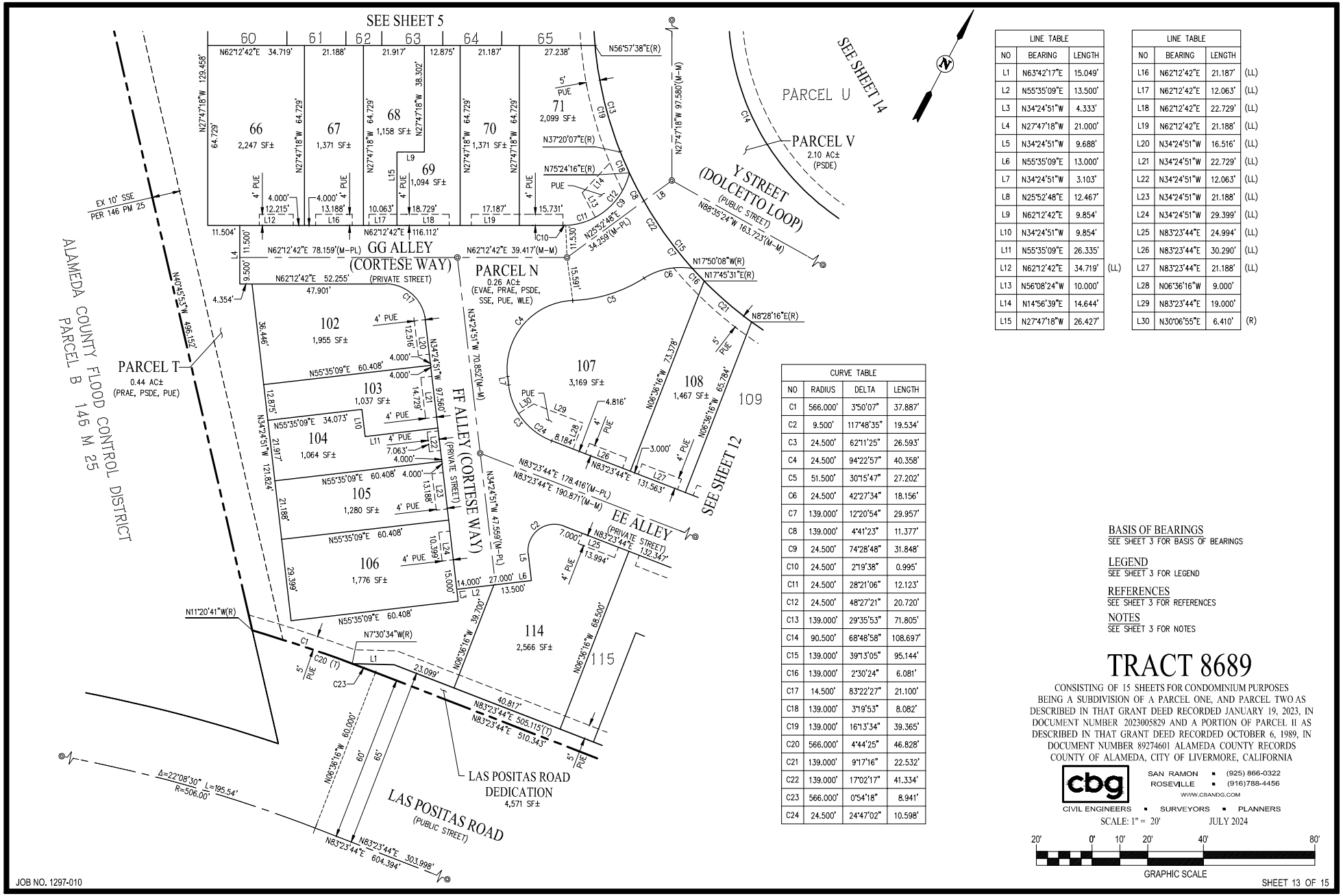
SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 12 OF 15



LINE TABLE			
NO	BEARING	LENGTH	
L1	N63°42'17"E	15.049'	
L2	N55°35'09"E	13.500'	
L3	N34°24'51"W	4.333'	
L4	N27°47'18"W	21.000'	
L5	N34°24'51"W	9.688'	
L6	N55°35'09"E	13.000'	
L7	N34°24'51"W	3.103'	
L8	N25°52'48"E	12.467'	
L9	N62°12'42"E	9.854'	
L10	N34°24'51"W	9.854'	
L11	N55°35'09"E	26.335'	
L12	N62°12'42"E	34.719'	(LL)
L13	N56°08'24"W	10.000'	
L14	N14°56'39"E	14.644'	
L15	N27°47'18"W	26.427'	

LINE TABLE			
NO	BEARING	LENGTH	
L16	N62°12'42"E	21.187'	(LL)
L17	N62°12'42"E	12.063'	(LL)
L18	N62°12'42"E	22.729'	(LL)
L19	N62°12'42"E	21.188'	(LL)
L20	N34°24'51"W	16.516'	(LL)
L21	N34°24'51"W	22.729'	(LL)
L22	N34°24'51"W	12.063'	(LL)
L23	N34°24'51"W	21.188'	(LL)
L24	N34°24'51"W	29.399'	(LL)
L25	N83°23'44"E	24.994'	(LL)
L26	N83°23'44"E	30.290'	(LL)
L27	N83°23'44"E	21.188'	(LL)
L28	N06°36'16"W	9.000'	
L29	N83°23'44"E	19.000'	
L30	N30°06'55"E	6.410'	(R)

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	566.000'	3°50'07"	37.887'
C2	9.500'	117°48'35"	19.534'
C3	24.500'	62°11'25"	26.593'
C4	24.500'	94°22'57"	40.358'
C5	51.500'	30°15'47"	27.202'
C6	24.500'	42°27'34"	18.156'
C7	139.000'	12°20'54"	29.957'
C8	139.000'	4°41'23"	11.377'
C9	24.500'	74°28'48"	31.848'
C10	24.500'	2°19'38"	0.995'
C11	24.500'	28°21'06"	12.123'
C12	24.500'	48°27'21"	20.720'
C13	139.000'	29°35'53"	71.805'
C14	90.500'	68°48'58"	108.697'
C15	139.000'	39°13'05"	95.144'
C16	139.000'	2°30'24"	6.081'
C17	14.500'	83°22'27"	21.100'
C18	139.000'	3°19'53"	8.082'
C19	139.000'	16°13'34"	39.365'
C20	566.000'	4°44'25"	46.828'
C21	139.000'	9°17'16"	22.532'
C22	139.000'	17°02'17"	41.334'
C23	566.000'	0°54'18"	8.941'
C24	24.500'	24°47'02"	10.598'

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

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SEE SHEET 3 FOR NOTES

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
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COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

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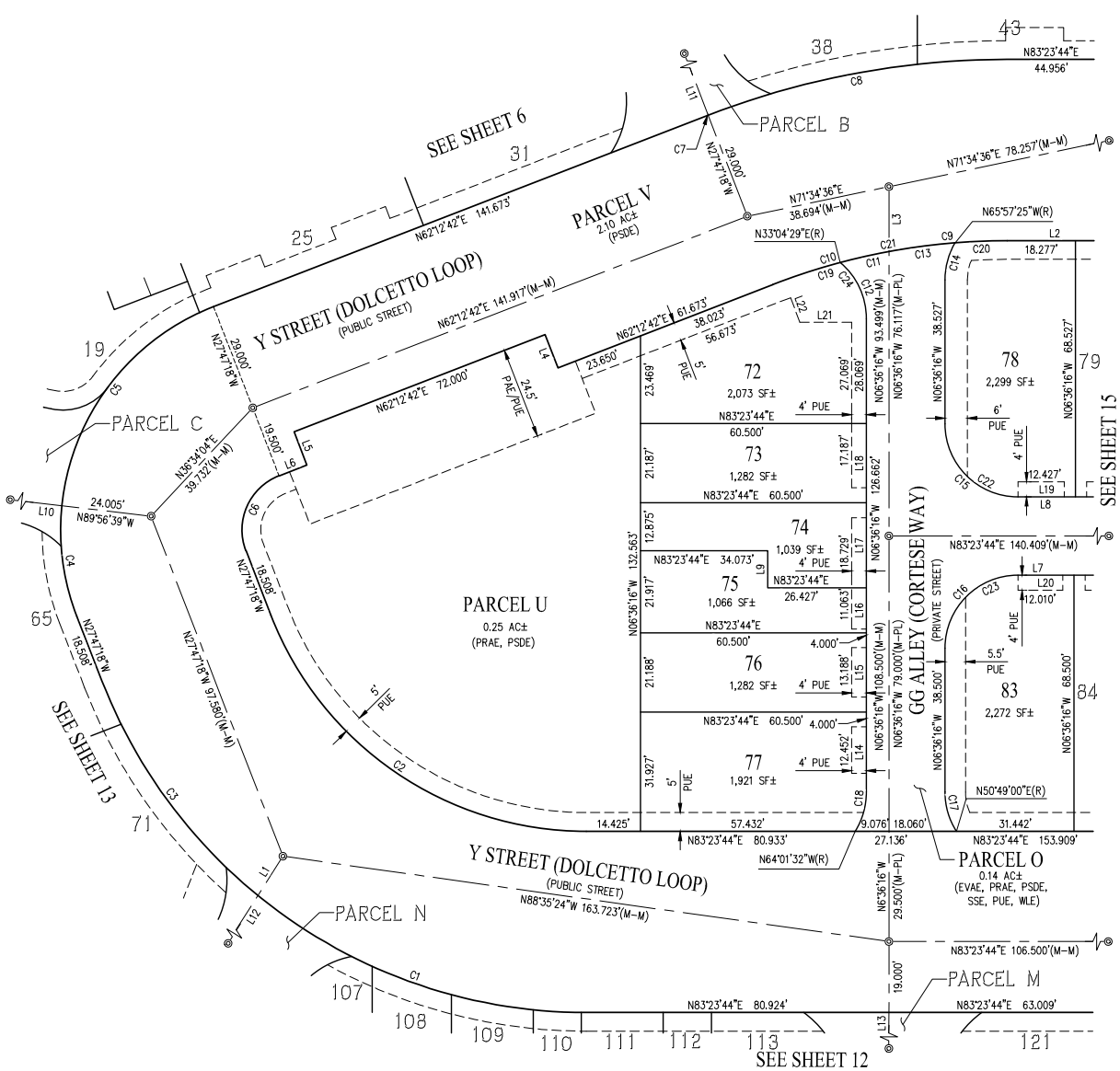
SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 13 OF 15



LINE TABLE			
NO	BEARING	LENGTH	
L1	N25°52'48"E	12.467'	(M-PL)
L2	N83°23'44"E	122.267'	
L3	N06°36'16"W	17.381'	(M-PL)
L4	N27°47'18"W	9.500'	
L5	N27°47'18"W	9.500'	
L6	N62°12'42"E	8.000'	
L7	N83°23'44"E	86.417'	
L8	N83°23'44"E	86.417'	
L9	N06°36'16"W	9.854'	
L10	N89°56'39"W	53.943'	(M-M)

LINE TABLE			
NO	BEARING	LENGTH	
L11	N27°47'18"W	151.000'	(M-M)
L12	N25°52'48"E	46.726'	(M-M)
L13	N06°34'37"W	93.500'	(M-M)
L14	N06°36'16"W	21.427'	(LL)
L15	N06°36'16"W	21.188'	(LL)
L16	N06°36'16"W	12.063'	(LL)
L17	N06°36'16"W	22.729'	(LL)
L18	N06°36'16"W	21.187'	(LL)
L19	N83°23'44"E	15.427'	(LL)
L20	N83°23'44"E	15.010'	(LL)
L21	N83°23'44"E	13.831'	
L22	N26°42'05"W	7.034'	

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	139.000'	39°13'05"	95.144'
C2	90.500'	68°48'58"	108.697'
C3	139.000'	29°35'53"	71.805'
C4	64.000'	26°57'40"	30.116'
C5	64.000'	63°02'20"	70.415'
C6	15.500'	90°00'00"	24.347'
C7	222.000'	0°03'46"	0.244'
C8	222.000'	21°07'16"	81.836'
C9	173.500'	10°30'29"	31.820'
C10	173.500'	10°40'33"	32.328'
C11	173.500'	4°25'18"	13.389'
C12	19.500'	50°19'15"	17.126'
C13	173.500'	5°54'15"	17.879'
C14	19.500'	30°38'51"	10.431'
C15	19.500'	90°00'00"	30.631'
C16	19.500'	90°00'00"	30.631'
C17	19.500'	32°34'44"	11.088'
C18	19.500'	32°34'44"	11.088'
C19	173.500'	6°15'15"	18.939'
C20	173.500'	4°36'14"	13.941'
C21	173.500'	10°19'33"	31.268'
C22	19.500'	43°48'47"	14.911'
C23	19.500'	45°53'07"	15.617'
C24	19.500'	27°15'33"	9.277'

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

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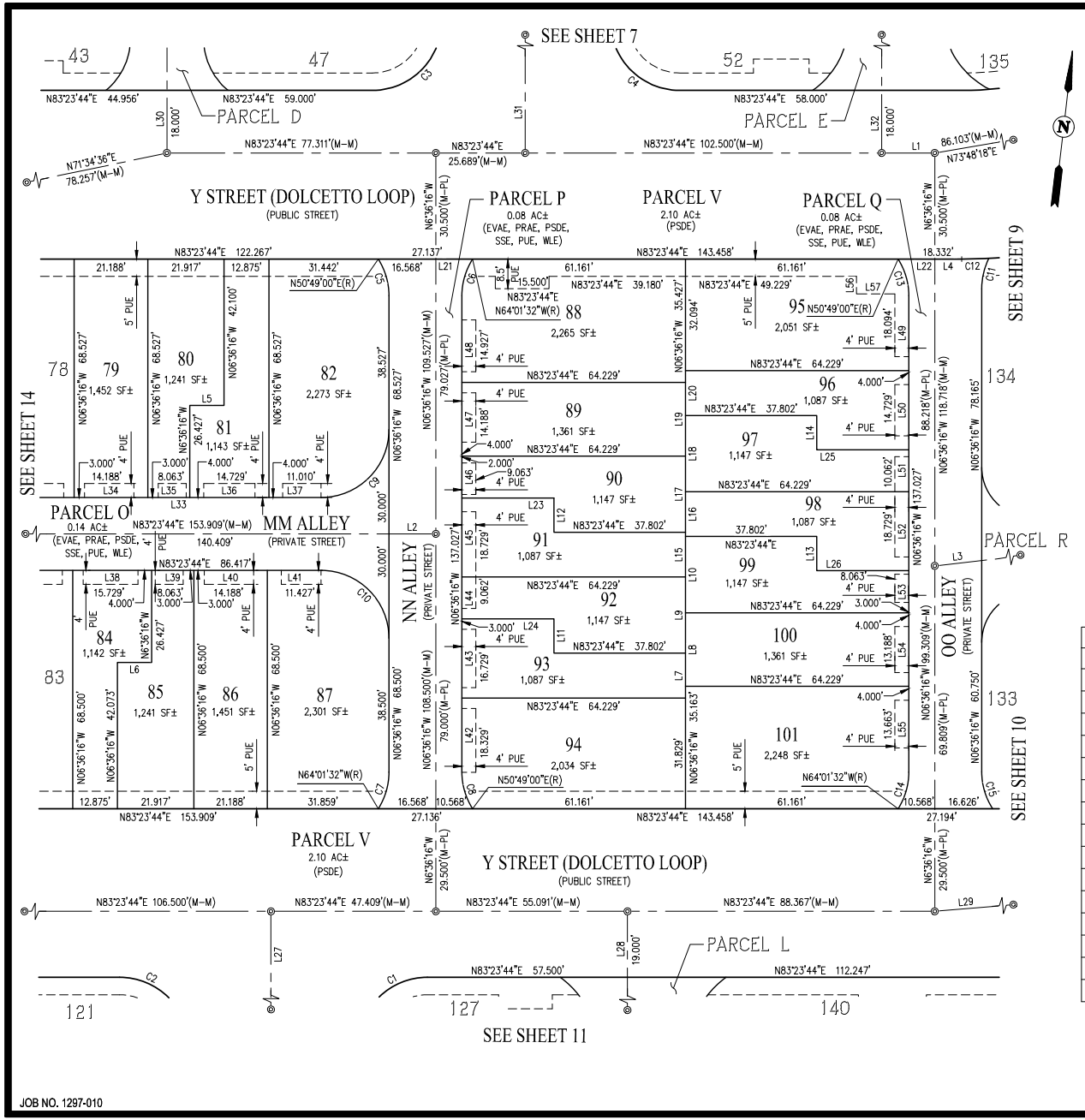
SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 14 OF 15



LINE TABLE			
NO	BEARING	LENGTH	
L1	N83°23'44"E	15.269'	(M-M)
L2	N83°23'44"E	13.500'	(M-PL)
L3	N76°55'40"E	13.586'	(M-PL)
L4	N83°23'44"E	7.764'	
L5	N83°23'44"E	9.854'	
L6	N83°23'44"E	9.854'	
L7	N06°36'16"W	12.875'	
L8	N06°36'16"W	21.188'	
L9	N06°36'16"W	21.917'	
L10	N06°36'16"W	21.917'	
L11	N06°36'16"W	9.854'	
L12	N06°36'16"W	9.854'	
L13	N06°36'16"W	9.854'	
L14	N06°36'16"W	9.854'	
L15	N06°36'16"W	12.875'	
L16	N06°36'16"W	12.875'	
L17	N06°36'16"W	21.917'	
L18	N06°36'16"W	21.917'	
L19	N06°36'16"W	21.188'	

LINE TABLE			
NO	BEARING	LENGTH	
L20	N06°36'16"W	12.875'	
L21	N83°23'44"E	10.568'	
L22	N83°23'44"E	10.568'	
L23	N83°23'44"E	26.427'	
L24	N83°23'44"E	26.427'	
L25	N83°23'44"E	26.427'	
L26	N83°23'44"E	26.427'	
L27	N06°36'16"W	240.500'	(M-M)
L28	N06°36'16"W	109.564'	(M-M)
L29	N78°32'31"E	156.479'	(M-M)
L30	N06°36'16"W	129.127'	(M-M)
L31	N06°36'16"W	167.307'	(M-M)
L32	N06°35'18"W	95.235'	(M-M)
L33	N83°23'44"E	86.417'	
L34	N83°23'44"E	21.188'	(LL)
L35	N83°23'44"E	12.063'	(LL)
L36	N83°23'44"E	22.729'	(LL)
L37	N83°23'44"E	15.010'	(LL)
L38	N83°23'44"E	22.729'	(LL)

LINE TABLE			
NO	BEARING	LENGTH	
L39	N83°23'44"E	12.063'	(LL)
L40	N83°23'44"E	21.188'	(LL)
L41	N83°23'44"E	15.427'	(LL)
L42	N06°36'16"W	21.329'	(LL)
L43	N06°36'16"W	22.729'	(LL)
L44	N06°36'16"W	12.062'	(LL)
L45	N06°36'16"W	22.729'	(LL)
L46	N06°36'16"W	12.063'	(LL)
L47	N06°36'16"W	21.188'	(LL)
L48	N06°36'16"W	24.927'	(LL)
L49	N06°36'16"W	21.594'	(LL)
L50	N06°36'16"W	22.729'	(LL)
L51	N06°36'16"W	12.062'	(LL)
L52	N06°36'16"W	22.729'	(LL)
L53	N06°36'16"W	12.063'	(LL)
L54	N06°36'16"W	21.188'	(LL)
L55	N06°36'16"W	24.663'	(LL)
L56	N06°36'16"W	5.000'	
L57	N83°23'44"E	11.000'	

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	20.000'	90°00'00"	31.416'
C2	20.000'	90°00'00"	31.416'
C3	20.000'	90°00'00"	31.416'
C4	20.000'	90°00'00"	31.416'
C5	19.500'	32°34'44"	11.088'
C6	19.500'	32°34'44"	11.088'
C7	19.500'	32°34'44"	11.088'
C8	19.500'	32°34'44"	11.088'
C9	19.500'	90°00'00"	30.631'
C10	19.500'	90°00'00"	30.631'
C11	19.500'	26°34'23"	9.044'
C12	151.500'	2°56'58"	7.799'
C13	19.500'	32°34'44"	11.088'
C14	19.500'	32°34'44"	11.088'
C15	19.500'	32°53'34"	11.195'

BASIS OF BEARINGS
SEE SHEET 3 FOR BASIS OF BEARINGS

LEGEND
SEE SHEET 3 FOR LEGEND

REFERENCES
SEE SHEET 3 FOR REFERENCES

NOTES
SEE SHEET 3 FOR NOTES

TRACT 8689

CONSISTING OF 15 SHEETS FOR CONDOMINIUM PURPOSES
BEING A SUBDIVISION OF A PARCEL ONE, AND PARCEL TWO AS DESCRIBED IN THAT GRANT DEED RECORDED JANUARY 19, 2023, IN DOCUMENT NUMBER 2023005829 AND A PORTION OF PARCEL II AS DESCRIBED IN THAT GRANT DEED RECORDED OCTOBER 6, 1989, IN DOCUMENT NUMBER 89274601 ALAMEDA COUNTY RECORDS
COUNTY OF ALAMEDA, CITY OF LIVERMORE, CALIFORNIA

cbg
SAN RAMON ▪ (925) 866-0322
ROSEVILLE ▪ (916)788-4456
WWW.CBANDG.COM
CIVIL ENGINEERS ▪ SURVEYORS ▪ PLANNERS

SCALE: 1" = 20' JULY 2024

20' 0' 10' 20' 40' 80'
GRAPHIC SCALE

JOB NO. 1297-010

SHEET 15 OF 15

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

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City Clerk
City of Livermore
1052 S. Livermore Avenue
Livermore, California 94550

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT is entered into by and between TH Arroyo Vista LLC, a California limited liability company ("Developer") and the City of Livermore, a municipal corporation ("City").

RECITALS

A. Developer is the owner of real property located within the corporate limits of the City of Livermore and has presented to the City Council of the City of Livermore a proposed subdivision, Tract Map No. 8689 recorded under Series No. , dated , Official Records of Alameda County, California (also known as "Subdivision" and/or "Property"). Developer proposes to do and perform certain improvements on said real property as set forth in this Agreement.

B. The City requires that the proposed improvements will be done in a good workmanlike manner and in accordance with the laws and standards now in force and effect in the City, the terms and conditions of which are incorporated herein by reference.

C. Developer acknowledges the pertinent laws, rules, and regulations contained in the Livermore Development Code Part 10 Subdivisions and in the Subdivision Map Act (Government Code sections 66410 to 66500) and agrees to comply therewith.

D. A Final Map of the subdivision, prepared in accordance with the Livermore Development Code Part 10 Subdivisions, has been filed by Developer with the City for approval by the City Council.

E. The City requires, as a condition precedent to the acceptance and approval of the map, the dedication of streets, highways, public utility easements, emergency vehicle access easements, public access easements and public ways shown on the map. In addition, the City requires improvement of the streets, highways, and public ways by the construction and installation of certain work as described below, and all appurtenances thereto.

F. Developer has asked the City to accept the dedication of the public improvements and street or streets shown on the map and approve the map. Public improvements have not yet been completed according to the requirements of the map and the City. As consideration for the acceptance of the Final Map and offer of dedication, the parties desire to establish an agreement binding Developer to complete improvements prior to occupancy of the development in accordance with the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, the City and Developer hereby agree that the aforementioned recitals are true and correct and in consideration of the approval and acceptance of the Final Map by the City Council and the acceptance of easements offered for dedication for street, utility, and for public purposes, and the covenants herein contained, the parties mutually agree as follows:

1. Definition and Ownership of Improvements. The term "Improvements" means public and private improvements, and on-site and off-site improvements, and includes, but is not limited to, grading, paving, curbs and gutters, pathways, storm drains, sanitary sewers, utilities, drainage facilities, traffic controls, landscaping, streetlights, survey monuments, and all other required facilities as shown in detail upon the plans, profiles and specifications which have been prepared by Developer subject to approval by the City Engineer. No work on the Improvements shall be commenced until plans and/or profiles have been submitted, approved and permitted by the City Engineer. All required public improvements, as identified in the plans, profiles and specifications, constructed or installed pursuant to this Agreement shall become the sole exclusive property of the City, without payment therefore, upon acceptance of the public improvements.

2. Approval of Map. The City approves the subdivision of Tract No. 8689, also known as Arroyo Vista Phase 2, and agrees to accept the dedication of the related public improvements for future maintenance.

3. Construction of Subdivision Improvements. Developer agrees to design, construct, and install, at its own expense, all of the Improvements for the Property as described in the Engineering Considerations at Exhibit "A", attached and incorporated herein by this reference, in strict accordance with all specifications, plans, and applicable City standards, and to the satisfaction of the City Engineer. The work shall be performed, and all materials and labor shall be provided, at Developer's sole cost and expense. Developer has provided detailed improvement plans for all on-site and off-site improvements required by the Engineering Considerations at Exhibit "A". All required Improvements shall be constructed in accordance with the approved improvement plans (dated June 2024, sheets 1-888) and current City standard specifications and details all of which are on file in the office of the City Engineer. Developer's obligation to complete the Improvements is separate and independent of any obligation of the City contained herein, and is not conditioned on the sale of any lots or Improvements within the Property.

4. Special Conditions. Developer shall be required to comply with the special conditions as follows:

(a) Enter into a Stormwater Operations and Maintenance Agreement for the purposes of maintaining the on-site stormwater devices which shall be recorded prior to the issuance of the 1st building permit for a residential dwelling unit other than a model home for this subdivision.

(b) Developer shall install a backflow preventor on the domestic water service to each residential unit to isolate the fire protection system from the user premises, or design the fire protection system piping to loop within the structure and connect to one or more routinely used fixtures (such as a water closet), in order to prevent stagnant water as required by new State Mandated regulations for fire protection/backflow requirements.

(c) In order to provide additional public benefits, Developer shall submit to the City $258,900.00 prior to the issuance of the 100th building permit, and $258,900.00 prior to the issuance of the 300th building permit for Tract 8379 and this subvision, Tract 8689 (together, the "Pedestrian/Bicycle Contributions"). Payment is subject to an annual cost escalator based on Bay Area Construction Cost Index starting on July 24, 2018.

(d) Developer will provide 39 units, including 16 units of the Garden Court product and 23 units of the Flats product, for sale at affordable prices with plans and locations as described in Low Income For Sale Housing Agreement between City of Livermore and Trumark Homes, Inc.

(e) The Project shall comply with the public art requirements set forth in Chapter 12.51 of the Livermore Municipal Code. Pursuant to this Chapter, the developer intends to pay the in-lieu fee instead of providing the public art per the aforementioned municipal code prior to the issuance of the 1st building permit.

(f) Developer shall provide final Joint Trench Plans that include PG&E approved signature prior to issuance of the 1st building permit for the Project.

(g) The Developer is required to construct a pedestrian bridge across the Arroyo Seco Channel no later than the issuance of the 240th building permit for the Project. The Developer has applied for a site plan design review modification (SPDRM) 24-002 for the elimination of the pedestrian bridge across the Arroyo Seco Channel for alternative in-lieu contributions. If the SPDRM to eliminate the pedestrian bridge for in-lieu contributions is approved by City Council, construction of the bridge is no longer required and the Developer shall then provide any in-lieu contributions as required by the City Council and pay for any costs incurred by the City required to vacate the Zone 7 aerial easement that was dedicated to the City.

5. Time for Completion. All Improvements shall be complete and ready for acceptance by the City Council, as determined by the City Engineer, prior to the occupancy of the first residential dwelling unit other than a model home but in any event no later than two years after the recording of the Final Map, except those Improvements for which another completion date is stated in Exhibit "A" or Section 4, *Special Conditions*, of this Agreement, if applicable.

6. Permits, Licenses, and Compliance with the Law. Developer shall, at Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the work specified in this Agreement. Developer shall also comply with all local, state, and federal laws, ordinances, rules, and regulations whether or not said laws are expressly stated in this Agreement.

7. Developer's Obligation to Warn Public During Construction. Until recordation of the Resolution of Acceptance, Developer shall give good and adequate warning to the public of any unsafe condition of the public improvements and shall take reasonable actions to protect the public from such condition. Until recordation of the Resolution of Acceptance, Developer shall provide forty-eight (48) hours' advance written notice to all neighboring property owners and tenants affected by Developer's operations and/or construction of the hours, dates and duration of any planned construction activities.

8. Injury to Public Improvements, Public Property or Public Utility. Until recordation of the Resolution of Acceptance of the public improvements, Developer assumes responsibility for

the care and maintenance of, and any damage to, the public improvements. Developer shall replace or repair all public improvements, public property, public utility facilities, and surveying or subdivision monuments and benchmarks which are destroyed or damaged for any reason, regardless of whether resulting from the acts of Developer, prior to the recordation of the Resolution of Acceptance. Developer shall bear the entire cost of such replacement or repairs regardless of what entity owns the underlying property. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the City Engineer.

Neither the City, nor any officer or employee thereof, shall be liable or responsible for any accident, loss or damage, regardless of cause, occurring to the work or public improvements prior to recordation of the Resolution of Acceptance of the work or improvements.

9. Acceptance by City. The City shall accept for maintenance the on-site and off-site public improvements required by this Agreement after City has determined Developer has caused all Improvements to have been made in accordance with the requirements of Section 3, *Construction of Subdivision Improvements*, of this Agreement. All on-site and off-site public improvements required by this Agreement shall become the sole property of the City when the City accepts such improvements for permanent maintenance.

10. Continued Maintenance for One Year. Developer shall maintain all improvements required by this Agreement, as outlined in Section 3, *Construction of Subdivision Improvements*, of this Agreement, for one year following the completion by Developer and acceptance of the improvements by the City Council. All public improvements required by this Agreement shall become the sole property of the City when the City accepts such improvements for permanent maintenance.

11. Inspection by City. All work done by Developer shall be inspected by an inspector employed by the City at the cost and expense of Developer. Developer shall pay the City, on demand, the cost of the inspection in accordance with City ordinances. In order to permit the City to inspect the work, Developer shall provide to the City proper and safe access to the project site at all times, and to all portions of the work, and to all shops wherein portions of the work are in preparation.

12. Existing Utilities. Any relocation or modification of existing utilities or public improvements necessary to construct the Improvements shall be the sole responsibility and obligation of Developer. The City shall not be responsible for any relocation or modification of existing utilities or public improvements.

13. Continuous Work. After commencement of construction of the Improvements (or separate portion thereof), Developer shall cause such work to be diligently pursued to completion and shall not abandon the work for a consecutive period of more than thirty (30) calendar days, events of Force Majeure, as defined in Section 27 of this Agreement, excepted.

14. Payment of Outstanding Fees. Prior to acceptance of the on-site and off-site public improvements for permanent maintenance by the City, Developer shall pay all outstanding fees that are due in accordance with City ordinances, the Livermore Municipal Code, the Livermore Development Code, and this Agreement. In the event the fees are not paid within one year of the date of execution of this Agreement, Developer shall pay interest at seven percent (7%) per annum from that date until the fees are paid, whether or not any conditions of this Agreement are extended or modified.

15. Reversion to Acreage. If Developer fails to perform its obligations under this Agreement, Developer consents to the reversion to acreage of the land which is the subject of this Agreement pursuant to Government Code section 66499.16, et seq. and to bear all applicable costs.

16. Property Acquisition. If Developer is unable to acquire property required for the construction of Improvements, Developer agrees to execute an agreement drafted by the City enabling the City to provide for acquisition through eminent domain.

17. Bonds Required. Developer shall provide to the City surety bonds of a form satisfactory to the City Attorney issued by a company authorized to issue surety bonds in the State of California as follows:

(a) The face amount of the bond has been established based on the City Engineer's estimate of the total cost to perform Developer's obligations under this Agreement, plus a reasonable contingency. The bond may be called for failure to comply with the provisions of this Agreement in whole or in part according to the terms of the bond. The bond will not be released until there has been full compliance with this Agreement and the Improvements have been inspected and accepted by the City in full compliance with the approved improvement plans. At the discretion of the City Engineer, the amount of such security may be reduced, based on the amount of work completed on the Improvements.

(b) At the time of signing this Agreement, the following bonds shall be provided:

i. A faithful performance bond in the amount of 100 percent of the total estimated public and private improvement construction costs as shown on the improvement plans, or $16,532,125 to secure faithful performance of this Agreement by Developer.

ii. A labor and materials bond in the amount of fifty percent of the estimated public and private improvement construction costs as shown on the improvement plans, or $8,266,062 to secure payment by Developer of laborers and material engaged pursuant to this Agreement, and further to secure payment as required by the Unemployment Insurance Act.

(c) At the time of signing this Agreement, Developer shall also provide a warranty bond for maintenance in the amount of fifteen percent of the total estimated public and private improvement construction costs as shown on the improvement plans, or $2,479,819 to secure performance of Section 10, *Continued Maintenance for One Year*, of this Agreement. This bond shall remain in effect for one (1) year after the date of acceptance by the City Council of the improvements required by this Agreement.

18. Alternate Security. In lieu of the bonds required by Section 17, *Bonds Required*, of this Agreement, alternative security in the form outlined by City ordinance, compliant with the Government Code, and approved by the City Attorney may be provided.

19. Reporting Damages. If any damage (including personal injury, death, or property damage) occurs in connection with the performance of this Agreement, Developer shall immediately notify the City's Risk Management Division by telephone at (925) 960-4172, and Developer shall promptly submit to the City's Risk Manager a written report, in a form acceptable to the City, with the following information: (a) a detailed description of the damage (including the name and address of the injured or deceased person(s), and a description of the damaged

property, if any); (b) the name(s) and address(es) of witnesses; and (c) the name(s) and address(es) of any potential insurance companies.

20. **Default.** Default by Developer shall include, but not be limited to:

(a) Developer's failure to timely complete construction of the Improvements;

(b) Developer's failure to perform substantial construction work for a period of 30 consecutive calendar days after commencement of the work;

(c) Developer's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which Developer fails to discharge within 30 calendar days;

(d) The commencement of a foreclosure action against the subdivision or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or

(e) Developer's failure to perform any other obligation under this Agreement.

21. **Remedies.** The City reserves all remedies available to it at law or in equity for a default or breach of Developer's obligations under this Agreement. The City shall have the right, subject to this Section, to draw upon or use the appropriate security to mitigate the City's damages in the event of default by Developer. The City's right to draw upon or use the security is in addition to any other remedy available to the City. The parties acknowledge that the estimated costs and security amounts may not reflect the actual cost of construction of the Improvements and, therefore, the City's damages for Developer's default shall be measured by the cost of completing the required Improvements. The City may use the sums provided by the securities for the completion of the Improvements in accordance with the plans.

In the event Developer fails to cure any default under this Agreement within 20 business days after the City mails a notice of such default to Developer and Developer's surety, Developer authorizes the City to perform the obligation for which Developer is in default and agrees to pay the entire cost of such performance by the City. The City may take over the work and complete the Improvements, by contract or by any other method the City deems appropriate, at the expense of Developer. In such event, the City, without liability for doing so, may complete the Improvements using any of Developer's materials, appliances, plans, and other property that are at the work site and that are necessary to complete the Improvements.

22. **Indemnification.** To the fullest extent permitted by law, Developer agrees to protect and shall hold harmless, indemnify and defend with counsel acceptable to the City, the City, and its elected and appointed officials, officers, directors, boards and commissions, employees, agents, and designated volunteers (hereinafter collectively "Indemnified Parties") from and against any and all claims, demands, causes of action, liability, loss, damages, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) of any nature or sort, because of, or arising out of the acts or omissions of Developer, its agents, employees, contractors and subcontractors in the performance of this Agreement, including all claims, demands, causes of action, liability, loss, damages, expenses, and costs because of, or arising out of, in whole or in part, the design, construction, and installation of the Improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design, construction, or installation of said Subdivision and the Improvements as provided herein, and in addition, to adjacent property owners as a consequence of the

diversion of waters from the design and construction of public drainage systems, streets, and other public improvements. Acceptance by the City of the improvements shall not constitute an assumption by the City of any responsibility for any damage or taking covered by this Section. This indemnification and agreement to hold harmless shall not extend to such claims, demands, causes of action, liability, or loss arising out of the sole active negligence of the City, its officials, boards, commissions, agents, and employees. The Indemnified Parties shall not be liable for any injury to persons or property occasioned by reason of the acts or omissions of Developer and its agents, employees, contractors and subcontractors in the performance of this Agreement.

23. Assignment. Developer's obligations under this Agreement are and shall remain the personal obligations of Developer notwithstanding a transfer of all or any part of the property within the subdivision subject to this Agreement. Neither this Agreement nor any of the rights and obligations of Developer hereunder shall be assigned or transferred, in whole or in part, without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

24. Developer Not Agent of the City. Neither Developer nor any of Developer's agents, contractors, or subcontractors are or shall be considered to be agents or contractors of the City in connection with the performance of Developer's obligations under this Agreement.

25. Notice. Unless otherwise specified in this Agreement, Developer agrees to provide written notice to the City, within ten (10) calendar days of the occurrence of:

i. A change of name, corporate identity, or address of Developer or its contractor(s);

ii. Intent to transfer or a transfer of title to the Property by deed, contract, or operation of law;

iii. The foreclosure of a lien against the Property or a portion of the Property;

iv. The filing of a voluntary or involuntary petition of bankruptcy respecting Developer and/or its contractor(s); and

v. Any other event that may affect performance of the parties under this Agreement.

Notices under this Agreement must be delivered to the addresses below by deposit in United States mail or by overnight delivery service, with postage prepaid and delivery confirmation. Notices are effective on the date of deposit in the United States mail or on the date tendered to the overnight delivery service.

TO CITY: City of Livermore
Marianna Marysheva, City Manager
1052 S Livermore Avenue
Livermore, CA 94550

TO DEVELOPER: TH Arroyo Vista LLC
Tony Bosowski, Authorized Agent
3001 Bishop Dr., Ste. 100
San Ramon, CA 94583

26. Non-Discrimination. The City and Developer shall comply with all provisions and requirements of federal, State, and local non-discrimination laws, regulations and policies. During the performance of this Agreement, the parties shall not discriminate against any employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability, or national origin.

27. Force Majeure. Developer's time for completion of the Improvements shall be extended for the period of any enforced delay caused due to circumstances beyond the control and without the fault of Developer, including to the extent applicable adverse weather conditions, flood, earthquakes, strikes, lockouts, and required changes to the scope of work required by the City; provided however, that the period of any enforced delay shall not include any period longer than five (5) business days prior to the City's receipt of a written notice from Developer or its contractor detailing the grounds for Subdivider's claim to a right to extend its time for performance hereunder. The City Engineer shall evaluate all claims for Force Majeure and the City Engineer's decision shall be final.

28. Insurance Required. Developer shall procure and maintain insurance for the duration of this Agreement in the amounts and under the terms set forth in Exhibit "B" against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by Developer, its agents, representatives, employees, or subcontractors.

29. Participation in Benefit Districts. Developer shall participate in all Benefit Districts formed by the City prior to the execution of this Agreement and shall pay the pro rata fee due the City under the terms of Benefit District(s) as applied to the real property covered by this Agreement.

30. Attorney's Fees to Prevailing Party. If any action at law or in equity, including an action for declaratory relief, is brought to challenge, enforce, or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, expert witness fees, and costs, in addition to any other relief to which it may be entitled.

31. Developer Obligations to Pay City Expenses to Defend Agreement. If the City chooses to defend any third party claim or suit challenging any action taken by the City with regard to any procedure or aspect of this Agreement, including the environmental review process for the project, the Developer agrees to reimburse the City for attorneys' fees, expert witness fees, and other costs that the City may incur in connection with its retention of outside counsel, and for any award of court costs or fees against the City. The City has the right to choose and retain such legal counsel, as the City deems appropriate. After expenses reach $100,000 and for each $100,000 thereafter, the parties will confer to review the status of the litigation and their options for proceeding or settling, and they will negotiate in good faith regarding the allocation of expenses among the parties.

32. Agreement Binds Successors. This Agreement pertains to and runs with the land benefited by the privileges it grants and binds the successors in interest of the parties to this Agreement. This Agreement shall be recorded in the Official Records of Alameda County.

33. Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this

section shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.

34. Modifications. This Agreement may not be modified unless by written instrument signed by both parties.

35. Governing Law. The interpretation, validity and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda.

36. Counterparts. This Agreement may be executed and delivered in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, will be deemed to constitute one and the same agreement.

****

Signatures and Attachment List on the Next Page

DEVELOPER:
TH Arroyo Vista LLC,
a California limited liability company

Dated:

8/6/24

By: Tony Bosowski
Title: Authorized Agent

Mailing Address:
3001 Bishop Dr., Ste. 100
San Ramon, CA 94583

(ALL SIGNATURES MUST BE NOTARIZED)

CITY OF LIVERMORE,
a municipal corporation

Dated:

MAYOR

ATTEST:

Debbie Elam, Acting City Clerk

APPROVED AS TO FORM:

Deputy/Assistant/City Attorney

Attachments:
Exhibit A – Engineering Considerations
Exhibit B – Insurance Requirements

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Contra Costa)

On August 6, 2024 before me, Trevor Brown, Notary Public
(insert name and title of the officer)

personally appeared Tony Boxowski,
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.

NRO1 TREVOR BROWN
COMM. #2446854
Notary Public - California
Contra Costa County
My Comm. Expires May 13, 2027 NRO1

Signature Trevor Brown (Seal)

DATE: May 29, 2017
Revised by Staff 7-24-17

ENGINEERING CONSIDERATIONS - EXHIBIT "A"
(Subject to revision prior to final approval
by Planning Commission and City Council)

TENTATIVE TRACT: 8379 (SUB16-010)

LOCATION: Las Positas Road and Bennett Drive

APPLICANT: Summerhill Homes

Note: Special conditions are shown in standard type. Standard conditions that apply to this project are shown in italics. In addition, standard conditions of approval for this project are listed in Section II of the Development Plan Check and Procedures Manual.

1. DEFINITIONS

For the purpose of this agreement, the following words shall have the meanings respectively ascribed to them by this section:

Developer :	*Person(s) or Corporation(s) signing final map(s) and subdivision agreement(s)*
Improvement Plans:	*Construction drawings for required public and private improvements*
Services:	*Utility lateral, or any portions of a conduit cable or duct, between a utility distribution line and the site it serves*
Project:	*The work to be performed by Developer*

2. VESTING TENTATIVE MAP

Approval or conditional approval of this vesting tentative map shall not limit the City Engineer's ability to require workable designs on future grading and improvement plans based upon these Engineering Considerations and the City's standard engineering specifications and details. The following are requirements of the final maps:

a. These conditions are consistent with the Agreement, dated May 26, 1992, between Joseph Pell and Eda Pell Revocable Trust dated August 18, 1989, Joseph Pell and Edna Pell trustees and the City of Livermore (Pell Agreement).
b. Development Agreement, DA17-002, provides additional conditions that must be met for this development.
c. The project shall be phased with 2 final maps as indicated on the vesting tentative map phasing plan.

d. The City will vacate and quitclaim Lot 6 of Parcel Map 6986 back to the property owner of this development per the requirements noted in the owners statement of Parcel Map 6986.
e. The City will Quitclaim existing Public Utility Easements along project frontages of Bennett Drive, Arroyo Vista and Las Positas Road.
f. The City will coordinate with the Developer to amend the City's license agreement with Alameda County Zone 7 for the maintenance of the proposed trail improvements along the Alameda County Zone 7 Channel Property between Arroyo Vista and Las Positas Road. The Developer shall obtain an encroachment permit from Alameda County Zone 7 for the construction of the trail improvements.
g. The developer shall dedicate a 4-foot right-of-way easement along the project frontage of Arroyo Vista for frontage improvements that are required in addition to the right-of-way.
h. The Developer shall dedicate a 4.5-foot right-of-way easement along the project frontage of Bennett Drive for frontage improvements that are required to be located in the right-of-way.
i. The developer shall dedicate a minimum of a 5-foot wide Public Utility Easement as required along the ultimate right-of-way of Las Positas Road, Arroyo Vista, and Bennett Drive. The actual location and length of the public utility easements shall be determined during the design and final map approval.
j. The Developer shall dedicate a 39 to 48.5-foot right-of-way easement for proposed public streets A, B, X, Y, and Z.
k. The developer shall dedicate Public Utility, Public Sewer, Public Water, and Emergency Vehicle Access Easements over proposed private parcels A-Z and AA-NN.
l. The Developer shall dedicate Private Storm Drain and Private Access Easements over proposed private parcels A-Z and AA-NN.
m. The developer shall construct a pedestrian bridge across the Arroyo Seco Channel, owned by Alameda County Zone 7, between the proposed east and west developments of this project **no later than the issuance of the 240th building permit.** The Developer shall acquire an aerial easement and an encroachment permit for the construction, access and maintenance of the bridge on and across the Alameda County Zone 7 channel property.
n. The Developer shall install ADA ramps at all new street intersections constructed with this development.
o. The maintenance of private infrastructure within public streets including but not limited to the private fire service water main and private storm drain system will require the HOA to acquire an encroachment permit from the City. The HOA will be responsible making any required repairs per City standards including patching and resurfacing of the public roadway as required by the City Engineer.

3. GENERAL

The project shall be in conformance with all City Ordinances, rules, regulations, and policies. The conditions listed below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

All required improvements shall be constructed prior to occupancy of the new residential units on this site.

A. IMPROVEMENT PLANS - Exhibit A-1

An engineered improvement plan shall be prepared by the Developer for approval by the City's Departments (including the Community Development, Public Services, Fire, and Police Department), which shall include, but not necessarily be limited to, existing site conditions, dedications, grading plans, street design and grades, curb, gutter, sidewalk and driveway grades, and type, size and location of all public works improvements as herein required. Approval of this tentative map does not constitute approval of the details shown thereon. If there is any conflict between the tentative map and these Engineering Considerations, the Engineering Considerations shall govern.

B. STANDARDS FOR IMPROVEMENT PLANS AND MAPS

All improvement plans and maps shall conform to the following City of Livermore documents except as modified by these engineering considerations:

1. *City of Livermore Standard Specifications and Details*
2. *Development Plan Check and Procedures Manual*

Completed final map and improvement plan checklists from the manual entitled "City of Livermore, Development Plan Check and Procedures Manual" shall be submitted with the first plan check submittal for each phase.

C. STANDARD CONDITIONS OF APPROVAL IN THE DEVELOPMENT PLAN CHECK AND PROCEDURES MANUAL

All of the standard conditions of approval for subdivisions and major projects as listed in Part II of the City of Livermore Development Plan Check and Procedures Manual apply except for the following: A-4, B-7, B-8, B-14, B-16, K-1, K-2, & K-3.

D. WORK IN OTHER JURISDICTIONS

The Developer is responsible for obtaining permits and approvals for construction work and property acquisition that are required by agencies other than the City of Livermore.

The proposed trail between Arroyo Vista and Las Positas Road is within the Alameda County Flood Control and Water Conservation District Zone 7 Property. The developer shall acquire all required easements and any agreements required to install and maintain the trail and proposed pedestrian bridge crossing that is within the Zone 7 property.

4. STREETS

A. SPECIFIC REQUIREMENTS:

The Developer shall offer easements and dedications for, and shall improve his share of the ultimate street widths for the following named streets in accordance with the City's General Plan:

Las Positas Road
Las Positas Road is a major roadway in the General Plan.

Per Section 11 (a) of the Pell Agreement, the Developer is not obligated at its expense to widen Las Positas Road, unless needed to serve the development. The traffic study for this development shows that Las Positas Road does not need to be widened as a result of this development, but it shows that signing and striping changes, and traffic signals are needed to provide safe access to this development. Therefore, the Developer will only be required to pay for modifications to Las Positas Road based on the current street width as noted below.

The existing street width of Las Positas Road at the intersection of Arroyo Vista is 96 feet from face of curb to face of curb from Lot 1 to Lot 2. It then varies and tapers down to 48 feet from face of curb to face of curb from Lot 3 to Lot 8. Las Positas Road is 48' from face of curb to face of curb from Lot 8 to Lot 343. From Lot 343 to Bennet Drive the street widens to 84 feet from face of curb to face of curb.

The developer shall widen Las Positas Road to accommodate a buffered bike lane. See Development Agreement, DA17-02.

From Arroyo Vista to Lot 8, the Developer shall modify the striping to relocate the left turn lane and provide a longer transition for the southbound lane drop as approved by the City Engineer.

From Lot 8 to lot 154 the Developer shall restripe the roadway to include a two way left turn lane in the center. See DA17-02 for roadway cross section.

From lot 154 to Lot 343 the Developer shall stripe a median with 110' turn left lanes and 120' tapers at the A Street-Contractors Street intersection. See DA17-02 for roadway cross section.

The developer shall provide new striping from Lot 343 to Bennett Drive as generally shown on the Vesting Tentative Map approved by the City Engineer, including dedicated 110' left turn lanes with 120' tapers into X Street and the driveway entry of the Arroyo/Livermore Business Park.

The Developer shall widen Las Positas Road to install a new bus turn out with a bus shelter on the north side of Las Positas Road approximately 120 feet west of the entry into proposed Street "A". The Developer shall provide pedestrian access from the development and homes fronting Las Positas Road to the bus turn out.

The Developer shall provide a 5-foot wide sidewalk located in the ultimate location to align with the future widening of Las Positas Road as indicated on Tentative Map sheets TM-3 & TM-4.

The developer shall slurry seal the full width of Las Positas Road from Arroyo Vista to Bennett Drive prior to restriping.

<u>Bennett Drive</u>
Bennett Drive is an existing industrial roadway with a proposed 64.5-foot right of way and a street width of 48 feet from face of curb to face of curb. Within this right-of-way the developer shall install a new curb and gutter, a 4.5-foot to 5-foot wide planter strip and a 5 foot wide separated sidewalk along the project frontage.

The Developer shall remove and/or modify no parking signs along ~~**the west and south side of**~~ Bennett Drive ~~**along the project frontage**~~ as approved by the City Engineer. **A final parking plan will be**

reviewed and approved by the City Engineer at the time of final map. Revised by Staff 7-24-17

The developer shall install a new ADA ramp at the northwest corner of Bennett Drive/Las Positas Road intersection.

The developer shall slurry seal the full width of Bennett Drive from the northern most boundary of this project to Las Positas Road.

Arroyo Vista
Arroyo Vista is an existing industrial roadway with a proposed 64-foot right of way and a street width of 48 feet from face of curb to face of curb. Within this right-of-way the developer shall install new curb and gutter, a 5 foot wide planter strip and a 5 foot wide separated sidewalk along the project frontage.

The Developer shall remove and/or modify no parking signs along ~~**the south side of**~~ Arroyo Vista ~~**along the project frontage**~~ as approved by the City Engineer**. A final parking plan will be reviewed and approved by the City Engineer at the time of final map. (Revised by Staff 7-24-17)**

The developer shall install a new ADA ramp at the southeast corner of Arroyo Vista at Las Positas Road.

The Developer shall install a new crosswalk with a flashing beacon across Arroyo Vista where the Arroyo Seco Trail intersects the roadway. The developer shall also install new ADA ramps at both the north and south ends of the crosswalk.

The developer shall slurry seal the full width of Arroyo Vista from Las Positas Road to the Arroyo Seco Channel.

Interior Public Streets
The Developer shall dedicate a 39 to 48.5-foot right-of-way easement for proposed public streets A, B, X, Y, & Z. The street widths shall be 34 feet from face of curb to face of curb consisting of a 26 foot wide travel lane with 8 feet of parking on one side of the street. The street sections shall consist of the following:
4.5 foot wide monolithic sidewalk with 6 inch curb and gutter
8 foot wide parking area
26 foot wide travel lane
6 inch curb and gutter
4 foot planter strip
5 foot wide separated sidewalk

The proposed perpendicular parking bays along Streets A & B shall be private and not included within the public right-of-way.

The developer shall install speed tables across Street A at Lot 45 and at Lot 83 to slow potential cut through traffic from Arroyo Vista to Las Positas Road as approved by the City Engineer.

Interior Private Alleys
Private Alleys shall be separated from the public streets by a standard driveway, enhanced paving, or valley gutter.

All private Alleys shall be signed with "No Parking Fire Lane".

Alleys C-O, Q, S-W, DD, GG, and JJ-PP are 20 feet wide from face of curb to face of curb with 4" rolled curbs and 6' deep driveways on each side of the alleys.

Alleys P, R, and EE- II are 26 feet wide from face of curb to face of curb with 4" rolled curbs and 6' deep driveways on each side of the alleys.

Alleys C, AA, CC, DD, and GG are 26 feet wide at the entries and taper down to 20 feet wide at the ends. The alleys at the entries are 26 feet wide from face of curb to face of curb with 4" rolled curbs on each side of the alley and a 6' deep driveway on one side and a landscaped open space area on the other side. The ends of the alleys are 20 feet wide from face of curb to face of curb with 4" rolled curbs on each side of the alley and a 6' deep driveway on one side and a landscaped open space area on the other side.

5. TRAFFIC SIGNALS

Install fully actuated traffic signals per current City and Caltrans standards using equipment as specified by the City Engineer at the following intersections:

Arroyo Vista/Las Positas Road (4-way intersection)
Contractors Street/A Street/Las Positas Road (4-way intersection)

A traffic signal interconnect conduit and copper interconnect cable shall be installed from the existing traffic signal controller at First Street/ Las Positas Road to the new traffic signal controllers at the intersection of Arroyo Vista/ Las Positas Road and the intersection of A Street/Contractors Street/ Las Positas Road.

At the 4-way intersection of A Street/Contractors Street/Las Positas Road, the developer shall install new crosswalks across all 4 legs of the intersections with pedestrian signals and push buttons.
At the 4-way intersection of Arroyo Vista/Las Positas Road, the developer shall install new crosswalks across all 4 legs of Las Positas Road and across Arroyo Vista with pedestrian push buttons.

The traffic signal at A Street/Contractors Street/Las Positas Road shall be operational 7 days before A Street is open to traffic but no later than the issuance of the 100th building permit. The traffic signal at Arroyo Vista/Las Positas Road shall be operational 7 days before the issuance of the 100th building permit.

6. FEE CREDITS AND REIMBURSEMENTS:

A. CREDITS

The Developer shall be eligible for credit against their traffic impact fees based upon the Pell Agreement Exhibit C originally executed May 26, 1992 and revised August 11, 1997.

The Developer shall receive credits against their traffic impact fees in the amount of $650,000 for the

estimated cost of 100% of the traffic signal at Las Positas/Arroyo Vista, 33% of the cost of the traffic signal at Las Positas/A Street/Contractors Street, and 100% of the cost of the signal interconnect.

The Developer shall receive credits against their traffic impact and/or park facilities fee for the widening of Las Positas Road for the buffered bike lanes based on Development Agreement, DA 17-02.

7. SANITARY SEWERS

The sewer main and lateral services located in public streets A, B, X, Y, & Z will be publicly-owned and maintained to the cleanouts to each home.

If the Developer chooses to install the City standard asphalt street section in the private alleys, the sanitary sewer lines will be publicly-owned and maintained to the cleanouts to each home.

If the Developer chooses to install enhanced specialty paving (i.e. pavers, stamped concrete, stamped asphalt, etc.) instead of City standard asphalt street section in the private alleys, the sanitary sewers in will be privately-owned by a homeowner's association and maintained to the cleanouts to each home. In order to differentiate the ownership of public and private facilities, the Developer shall provide the additional structures (manholes and or cleanouts) to be installed at the entries of the alleys.

If the Developer chooses to install the City standard asphalt street section for the majority of the public streets with only specialty paving (i.e. pavers, stamped concrete, stamped asphalt, etc.) in a few areas to act as "accents" to the project entry or other areas as approved by the City Engineer, the sanitary sewer may be publicly maintained to the cleanouts to each home. However, in order to facilitate the maintenance and repair of the public sanitary sewer lines in the future, the Developer shall install double-walled pipe or other pipe protective measures as approved by the City Engineer, in all locations where the pipe runs under specialty paving. Additionally, no pipe joints will be allowed in specialty paving areas.

Sewer shall be extended across all frontages of each phase.

Sewer laterals with cleanouts behind the curb shall be installed to each lot or site before the streets are surfaced.

8. STORM WATER DRAINAGE AND TREATMENT REQUIREMENTS

A. General

This site is subject to the National Pollutant Discharge Elimination System (NPDES) Program. Prior to the issuance of the initial grading or building permit, the Developer shall provide evidence that the site is covered by the statewide General Permit to Discharge Storm Water associated with construction activity. This requires confirmation that a Notice of Intent (NOI) and the applicable fee was sent to the State Water Resources Control Board. In addition, the grading plans need to state: "All grading shall be in accordance with the Storm Water Pollution Prevention Plan prepared by the Developer per the Notice of Intent on file with the State Water Resources Control Board".

B. Storm Drainage Requirements

Per the City's Facilities Planning Guidelines (dated June 2005), the flows must have the following characteristics:

> *For a 10-year design discharge: a hydraulic grade line (HGL) is no higher than 1.25 feet below the top of curb elevation at any manhole or inlet.*
>
> *For a 100-year design discharge: a HGL does not exceed the top of curb elevation. (This is required for item 3 above.)*

For additional detail on these guidelines, the applicant should refer to the following resources: City of Livermore Storm Drain Master Plan & City of Livermore Facilities Planning Guidelines (both available at the Engineering counter at City Hall).

The proposed storm drain system consists of a combination of treated and non-treated storm water throughout the public streets and private alleys. Because of this, all proposed storm drain infrastructure throughout the entire development shall be privately owned and maintained by a homeowner's association. City encroachment permits or a maintenance agreement will be required to maintain the private storm drain system within public streets. Any proposed pumps to discharge storm water into the bio-treatment devices shall be located on private property.

C. Stormwater Infrastructure Maintenance Funding

The cost to maintain all private storm water infrastructure installed with this project shall be funded by the Developer.

D. Channels

The Project site currently drains to the Arroyo Seco, owned by the Alameda County Flood Control and Water Conservation District (Zone 7). The developer shall route and connect all new treated storm water discharge piping to existing City owned infrastructure that currently outfalls into the Arroyo Seco.

E. Storm Water Treatment and Detention Requirements

1. *The Developer shall treat the storm water runoff from this site prior to having the storm water enter the City's storm water distribution system. The Developer shall provide a storm water treatment plan with calculations indicating treatment that meets the latest requirements described in Section C.3 of the City's NPDES Permit with the Regional Water Quality Control Board. City approval of this plan and calculations is required prior to the approval of the improvement plans.*

2. *This project is greater than one acre, the Developer shall provide a Hydrograph Modification Plan (HMP) with calculations in accordance with the Alameda Countywide Cleanwater Program (ACCWP) Bay Area Hydrology Model (BAHM) guidelines. The software for the design of control measures to meet the Flow Duration Control is available to download from*

www.bayareamodel.org. *For additional information you may contact Pamela Lung in the City's Engineering Department at (925-960-4538)*

3. *Prior to final map approval, the applicant shall enter into a maintenance agreement with the City of Livermore for all storm water treatment devices deemed necessary on this site. If the stormwater treatment devices will be maintained by the individual homeowners a cleanout will be necessary at the property lines to allow the residents to maintain their portion of the private stormdrain underdrain. If the stormwater treatment device will be maintained by a Homeowners Association then the cleanouts at each of the property lines may not be needed. The stormdrain treatment devices shall be shown on the plat plans and included in the Operations and Maintenance Agreement. The Operations and Maintenance Agreement(s) shall be recorded prior to recordation of the Final Map.*

4. **The proposed storm water treatment device located in Parcel S landscape area shall be designed such that the landscape area can be fully utilized as a functional open space area (including turf and public access). The proposed storm water treatment sump pump discharge system into this treatment device shall be designed such that it does not undermine the required open space use for this area and does not cause erosion damage to the engineered filtration soil required for the storm water treatment device. (revised by Staff 7-24-17)**

F. Stormwater Treatment Infrastructure Maintenance Funding

The cost to maintain all storm water treatment, detention and low impact development infrastructure installed with this project shall be funded by the Developer.

9. REQUIRED SOURCE CONTROL STORMWATER MEASURES

The Regional Water Quality Control Board adopted Order R2-2015-0049 issuing the Alameda Countywide NPDES municipal storm water permit for the Alameda Countywide Clean Water Program. The 17 member agencies, including Livermore, are subject to this permit and all its requirements including the following:

> *"The Permittees shall, as part of their continuous improvement process, submit enhanced new development and significant redevelopment Performance Standards that summarize source control requirements for such projects to limit pollutant generation, discharge, and runoff, to the maximum extent practicable…"*

In accordance with this requirement, the following source control measures, included as part of these Conditions of Approval, shall be implemented as a part of this project.

A. Structural Control Measures
   1. Illegal Dumping to Storm Drain Inlets and Waterways

   On-site storm drain inlets, except inlets located in landscaped areas, shall be clearly marked with the words "No Dumping! Flows to Bay" on a plastic marker. The plastic markers are available for purchase from the Water Resources Division. For ordering information, please call 925-960-

8100. For projects with newly-developed, privately-maintained streets, agency staff will verify that storm drain inlets have been marked before the final sign-off on the project's building permit or encroachment permit.

2. Interior Floor Drains

Approved interior floor drains shall be plumbed to the sanitary sewer system and shall not be connected to the storm drain system. The applicant shall contact the Water Resources Division for specific connection and discharge requirements.

3. Pesticide/Fertilizer Application and Irrigation

a. Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where possible, minimize the use of fertilizers and pesticides that can contribute to storm water pollution, and incorporate appropriate Bay-Friendly Landscaping principles.

b. If a landscaping plan is required as part of a development project application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:

I. Where feasible, landscaping shall be designed and operated to treat storm water runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.

II. Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.

III. Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.

IV. Unless otherwise specified, proper maintenance of landscaping shall be the responsibility of the property owner.

V. Integrated pest management (IPM) principles and techniques shall be encouraged as part of the landscaping design. Some examples of IPM principles and techniques include the following:

i. Select plants that are well adapted to soil conditions at the site.
ii. Select plants that are well adapted to sun and shade conditions at the site. Consider future conditions when plants reach maturity. Consider seasonal changes and time of day.
iii. Provide irrigation appropriate to the water requirements of the selected plants.

iv. Select pest and disease resistant plants.

v. Plant a diversity of species to prevent a potential pest infestation from affecting the entire landscaping plan.
vi. Use "insectary" plants in the landscaping to attract and keep beneficial insects.

VI. Landscaping shall also comply with City of Livermore's "Water Efficient Landscape Ordinance". However, areas of a site used for bio-swales or other landscaped areas that function as a storm water treatment measure shall be exempt from the Water Efficient Landscaping requirements.

VII. An efficient irrigation system shall be installed in areas requiring irrigation. An example of an efficient irrigation system is one that includes a weather-based (automatic, self-adjusting) irrigation controller with a moisture and/or rain sensor shutoff, and in which sprinkler and spray heads are not permitted in areas less than 8 feet wide.

4. Pool, Spa, and Fountain Discharges

a. New or rebuilt swimming pools, hot tubs, spas and fountains must have a connection to the sanitary sewer to facilitate draining. This connection could be a drain in the pool to the sanitary sewer or a cleanout located close enough to the pool so that a hose can readily direct the pool discharge into the sanitary sewer cleanout.

b.When draining is necessary, a hose or other temporary system shall be directed into a sanitary sewer cleanout, or vegetated areas that are large enough to accommodate the volume without allowing the discharged water to flow to the storm drain system or receiving water body.

5. Refuse Areas

a. New or redevelopment projects shall provide a roofed and enclosed area for dumpsters, recycling containers, compactors, and food waste containers. The area shall be designed to prevent water run-on to the area, to prevent runoff from the refuse area and to properly contain litter and trash. Dumpster leakage from covered trash and food compactor enclosures shall drain to the sanitary sewer via connection to an approved oil and grease interceptor device.

b. Runoff from trash enclosures, recycling areas, and/or food compactor enclosures or similar facilities shall not discharge to the storm drain system. Trash enclosure areas shall be designed to avoid run-on to the trash enclosure area. In most cases, drains are not permitted within trash enclosure areas. A drain, however, must be provided for compactors. If a drain is required in or beneath dumpsters, compactors, and tallow bin areas, it shall be connected to a grease removal device prior to discharging to the sanitary sewer.

6. Fire Sprinkler Test Water

Provisions shall be made in the project design and construction to allow for the discharge of fire

sprinkler test water to an onsite vegetated area. If this is not feasible, provide for discharge to the sanitary sewer in accordance with current plumbing codes.

7. Miscellaneous Drain or Wash Water
   a. Boiler drain lines shall be connected to the sanitary sewer system and may not discharge to the storm drain system.

   b. For small air conditioning units, air conditioning condensate shall be directed to landscaped areas as a minimum BMP. For large air conditioning units, in new developments or significant redevelopments, condensation lines shall be connected to the sanitary sewer system, wherever feasible.

   c. Roof drains shall discharge and drain away from the building foundation to landscaped areas wherever feasible.

   d. Washing and/or steam cleaning activities must be performed at an appropriately equipped facility that drains to the sanitary sewer as specified in Section J. Any outdoor washing or pressure washing must be in compliance with the City's Stormwater Management Program requirements and managed in such a way that there is no discharge of soaps or other pollutants to the storm drain system. The applicant shall contact the Water Resources Division for specific discharge requirements.

8. Architectural Copper Installation

Projects with architectural copper should, if possible, purchase copper materials that have been pre-patinated at the factor. Whether patination is done offsite or onsite, applicant should consider coating the copper materials with an impervious coating that prevents further corrosion and runoff. If patination is done on-site, implement one or both of the following:

a. Collect rinse water in a tank and pump to the sanitary sewer. Contact the City of Livermore Water Resources before discharging to the sanitary sewer.

b. Collect the rinse water in a tank and haul off-site for proper disposal.

B. II. OPERATIONAL BMPS

This section details Best Management Practices (BMP) that private property owners and/or the occupants of private property must implement following the construction of projects. Ultimately, the responsibility for implementation of these BMPs rests with the property owners. The City of Livermore's Source Control Program routinely performs inspections of industrial and commercial sites to verify BMP implementation and effectiveness.

1. Paved Sidewalks and Parking Lots

Sidewalks and parking lots shall be swept regularly to minimize the accumulation of litter and debris. Wash water resulting from the pressure washing of parking lots must be captured, pretreated (if necessary) to meet local discharge limits, and discharged to the sanitary sewer.

Wash water resulting from the pressure washing of sidewalks may be allowed to drain to the storm drain system provided that (a) no soap or other cleaning agents are used, and (b) all debris are trapped and collected to prevent entry into the storm drain system. Under no circumstances shall wash water containing any soap or other cleaning agents be discharged to the storm drain system.

2. Private Streets, Utilities and Common Areas

   a. The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.

   b. For residential developments, where other maintenance mechanisms are not applicable or otherwise in place, a Property Owners Association, Landscape& Lighting District, or an equivalent mechanism shall be created and shall be responsible for maintaining all private streets and private utilities and other privately owned common areas and facilities on the site including landscaping. These maintenance responsibilities shall include implementing and maintaining storm water BMPs associated with improvements and landscaping. CC&R's creating the association shall be reviewed and approved by the City prior to the recordation of the Final Map and recorded prior to the sale of the first residential unit. The CC&R's or Landscape & Lighting District shall describe how the storm water BMPs associated with privately owned improvements and landscaping shall be maintained and detail contact information for the entity responsible for such maintenance activities.

3. On-site Storm Drains

All on-site storm drains must be inspected and, if necessary, cleaned at least once a year immediately prior to the rainy season.

4. Architectural Copper Cleaning, Treating or Washing

When cleaning, treating or washing architectural copper features, implement one or both of the following:

a. Collect rinse water in a tank and pump to the sanitary sewer. Contact the City of Livermore Water Resources before discharging to the sanitary sewer.

b. Collect the rinse water in a tank and haul off-site for proper disposal.

10. WATER SUPPLY (CITY)

The developer shall relocate existing fire hydrants to behind the new proposed sidewalk along Las Positas Road as needed to accommodate the widening of Las Positas Road for the buffered bike lanes and the bus turnout. See Development Agreement DA17-02.

The developer shall relocate existing fire hydrants to within the new proposed landscape strip between the new curb and gutter and the proposed new separated sidewalk on Bennett Drive as indicated on

tentative map sheet TM-5.

The developer shall relocate existing air relief valve stations along Las Positas Road to behind the new proposed sidewalk to accommodate the widening of Las Positas Road for the buffered bike lanes and the bus turnout. See Development Agreement DA17-02.

On the east site development the developer has proposed a separate private fire service loop through the development to serve the proposed townhome flats to minimize the amount of large fire service backflow preventers required and allow room to adequately screen them. The developer shall locate this private fire service loop on the opposite side of the street from the public water main along Y Street and Private Alleys AA, BB, and OO and/or a location approved by the City Engineer, to eliminate confusion of what is to be publicly maintained and what is to be privately maintained in the street. The water mains shall be separated from the sewer main by 10 feet.

If the Developer chooses to install the City standard asphalt street section, the water lines in the private streets will be publicly-owned and maintained.

If the Developer chooses to install enhanced specialty paving (i.e. pavers, stamped concrete, stamped asphalt, etc.) instead of City standard asphalt street section, the water lines in the private streets will be privately owned by a homeowner's association and maintained to the property line. In order to differentiate the ownership of public and private facilities, the Developer shall provide the additional structures (valves) to be installed at the property line.

If the Developer chooses to install the City standard asphalt street section for the majority of the streets with only specialty paving (i.e. pavers, stamped concrete, stamped asphalt, etc.) in a few areas to act as "accents" to the project entry or other areas as approved by the City Engineer, the water lines may be publicly maintained. However, in order to facilitate the maintenance and repair of the water lines in the future, the Developer shall install double-walled pipe on or other pipe protective measures as approved by the City Engineer, in all locations where the pipe runs under specialty paving. Additionally, no pipe joints will be allowed in specialty paving areas.

Water mains shall be extended across all frontages of each phase and all waterline valves must notate "EPDM" on the valve body.

The developer shall install pressure reduction valves (PRVs), backflow prevention devices and appurtenances on the potable water services as directed by the City Engineer.
The fire service backflow preventer(s) shall be effectively screened from the public right-of-way while at the same time preserving ease of maintenance access to the backflow preventer(s). Screening shall be as specified on City Standard Detail W-10A, B and C. The fire service backflow preventer(s) shall meet the performance standards of the backflow preventer shown in City Standard Detail W-10A, B and C.

11. UNDERGROUNDING OF UTILITIES:

All new electric (with the exception of any 60 KV and higher voltage wires) and communication lines along the project frontage and within the project shall be placed underground. Electric, gas, Comcast and SBC utilities are required and shall be placed in a common trench. All electric transformers shall

be placed underground.

12. TRAILWAY/BIKEWAY REQUIREMENTS

Certain portions of this development are within the City of Livermore Bikeways and Trails Master Plan established and adopted as part of the General Plan. The Developer will be required to develop that certain land within his development for trail way purposes.

A. Livermore Trailway System

The Developer shall design and construct a portion of the trail along the western side of Alameda County Flood Control and Water Conservation District (Zone 7) Arroyo Seco Channel. The trail shall consist of a 12-foot wide asphalt pathway sloping away from the channel into a permeable drainage v-ditch that discharges to a storm piping system that outfalls to the Arroyo Seco Channel as indicated on the Vesting Tentative Map sheet TM-5.

Per DA17-02, the Developer shall pay their fair share costs of the design, and construction of various offsite segments of the Arroyo Seco Trail to connect to the Iron Horse Trail, Southfront Road and Contractors Place.

B. Bicycle Route Plan

Per DA17-02 the Developer shall contribute their fair costs to the City's First Street Bike Lane Enhancement Project.

13. MEDIANS AND OTHER LANDSCAPED AREAS

The public landscaping being constructed within City right of way along Las Positas Road shall be designed and constructed in accordance with City standards and as approved by the City Engineer.

14. HORTICULTURIST'S REPORT (Not Used)

15. SPECIAL DISTRICTS

A. Landscaping and Lighting Maintenance and Operation

The Developer shall either form a new Maintenance District prior to the first final map approval or the Developer shall provide an alternate source of funding or maintenance mechanism as approved by the City Engineer. This funding source shall include costs related to maintenance, operation, repair and replacement of the Arroyo Seco Trail being constructed between Las Positas Road and Arroyo Vista and the public landscaping along Las Positas Road. The Developer shall be responsible for all costs and work which are required to form this Maintenance District. The Developer shall agree to a first year's lot by lot assessment equivalent to the Maintenance District's first twelve months of estimated costs.

The Developer shall submit an Engineer's Report regardless of whether or not a Maintenance District is formed. The Engineer's Report shall be submitted in a hard copy format, and in computer formats on a disk. The computer formats for the Engineer's Report shall be Microsoft Word and Microsoft Excel to be compatible with the City's computer system.

~~**B. Community Facility District (CFD)**~~

~~The Developer may be allowed to utilize this public finance mechanism to fund the design and construction cost of public offsite improvements, including cash contributions identified in DA17-02. The Developer shall pay for all of the associated costs for the establishment and administration of the district. Unless otherwise noted, the Developer shall establish any CFD's prior to recording a final map.~~

16. AIRPORT LOCATION (Not Used)

17. SUBDIVISION AGREEMENT AND SECURITY

Following tentative map approval, the Subdivision Improvement Agreement will not be submitted to the City Council until the Developer has submitted all of the documents indicated in the "Final Approval of Tract Map Checklist" in the Development Plan Check and Procedures Manual (28) days prior to the city council meeting at which the final map will be considered for final approval by the City Council.

18. FEE AMOUNTS

Fees for this project shall be per the provisions allowed under a vesting tentative map and in accordance with DA17-02.

19. VEHICLE ACCESS

Access to the development by construction equipment, material delivery and other heavy loads shall be limited by the Developer to the following route:

Interstate 580 to First Street, to Las Positas Road

Such heavy loads will not be allowed on existing residential streets in the vicinity of the development.

The wheel-loading on the above routes shall not exceed State load limits.

20. DEVELOPMENTS WITH PRIVATE ROADWAYS AND UTILITIES (Condominiums, Row Houses, Cluster, etc.)

The private improvements of the private street system are part of the improvements required of this subdivision. For this reason, the Developer shall pay Engineering Division plan check and construction inspection fees and the City Engineering Division will provide these services. The Developer shall also provide subdivision security for the required private improvements.

BGV:PGL:MAP

S:\Development Projects\Planning Eng Conditions of Approval\Tentative Tracts\VTTM 8379 (SUB16-010) Arroyo Vista\
SUB16-010 Arroyo Vista VTTM 8379 Engineering Considerations Finalized 6-16-17 revised 7-5-17.docx

EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Developer shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$10,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance. If Developer is a sole proprietor, then they must sign "Contractor Release of Liability".
4. Pollution Liability:
   $1,000,000 per occurrence.

Deductibles and Self-Insured Retention

All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the named insured or the City of Livermore. The City of Livermore reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Developer; or automobiles owned, leased, hired or borrowed by the Developer. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or volunteers.

2. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. The additional insured coverage under the Developer's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or volunteers.
4. The Developer's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party before expiration of the policy unless notice is delivered in accordance with policy provisions.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

Completed Operations

Developer shall maintain insurance as required by this contract for a minimum of five years following the completion of this project. In the event the Developer fails to obtain or maintain completed operations coverage as required by this agreement, the City of Livermore at its sole discretion may purchase the coverage required and the cost will be paid by the Developer. Completed Operations endorsement or coverage shall be at least as broad as Insurance Services Office CG 20 38. Developer shall require and verify that all subcontractors or other parties hired for this Agreement purchase and maintain coverage for indemnity and insurance requirements at least as broad of specified in this Agreement to the extent they apply to the scope of the subcontractor's work with the same Certificate of Insurance requirements and naming as additional insureds all parties to this agreement. Developer shall include the following language in their agreements with Subcontractors: "Subcontractor agrees to be bound to Developer and City in the same manner and to the same extent as Developer is bound to City under the Agreement. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements,

with any sub-subcontractor to the extend they apply to the scope of the Sub-subcontractor's work. A copy of the City Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request." Developer shall provide proof of such compliance and verification to the City upon request.

Verification of Coverage

Developer shall furnish certificates of insurance and endorsement(s) effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements are to be received and approved by the City of Livermore before work commences. The City of Livermore reserves the right to require complete and certified copies of all insurance policies required by this Agreement.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.9**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution approving a request to the Metropolitan Transportation Commission for the allocation of $436,280 from FY 2024-25 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding to the Livermore Arroyo Road Trail Project 2019-55.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution approving a request to the Metropolitan Transportation Commission (MTC) for the allocation of $436,280 from FY 2024-25 Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funding to the Livermore Arroyo Road Trail Project 2019-55.

SUMMARY

The City of Livermore (City) is a recipient of the Transportation Development Act (TDA) Article 3 funding from the Metropolitan Transportation Commission (MTC). The TDA Article 3 funding is available for the exclusive use of pedestrian and bicycle projects and requires the local City Council approve the request for the allocation of TDA Article 3 funding.

The Arroyo Road Trail Project is identified in the first phase of priority projects in the City's Bicycle, Pedestrian, and Trails Active Transportation Plan as well as Alameda County's Bicycle and Pedestrian Plan. It will extend the Livermore trail network across unincorporated Alameda County jurisdiction and connect to the existing regional trail within Sycamore Grove Park and will be exclusively used by pedestrians and bicycles.

Staff recommends the City Council approve the request to the MTC for the allocation of $436,280 from FY 2024-25 TDA Article 3 Funding to the Livermore Arroyo Road Trail Project 2019-55.

DISCUSSION

The Transportation Development Act (TDA), Public Utilities Code Sections 99233.3 and 99234, makes funds available in the nine-county Metropolitan Transportation Commission (MTC) Region for the exclusive use of pedestrian and bicycle projects. The eligible projects will need to be completed in the

allocated time (fiscal year of allocation plus two additional fiscal years), have an appropriate CEQA document and a signed City Council Resolution. For FY 2024-2025, the City has $436,280 of TDA Article 3 funds available to claim. Staff recommends the City Council approve the request to the MTC for the allocation of all available TDA Article 3 funds to the Livermore Arroyo Road Trail Project 2019-55.

The Arroyo Road Trail Project, Project No. 2019-55, is an approximately 1.4-mile trail gap closure along Arroyo Road from Wetmore Road to the existing Arroyo Del Valle Regional Trail within Sycamore Grove Park. The project is identified in the City's South Livermore Valley Specific Plan and includes a pedestrian and bicycle bridge over Dry Creek.

The project goal is to fill a gap in the Livermore trail network, reduce stress, improve safety, and increase comfort along the Arroyo Road corridor for pedestrians and bicyclists, and provide greater connectivity between Livermore's neighborhoods, regional trail network, and regional open space areas such as Sycamore Grove and Del Valle Regional Parks. The project location is included in Attachment 1 of Exhibit B to the Resolution. The project is currently at the 65% design phase, and construction is tentatively scheduled to begin in summer 2025.

The project scope and schedule meet the requirements of the TDA Article 3 funds. In addition, the proposed project is identified in the 2018 Livermore Bicycle, Pedestrian, and Trails Active Transportation Plan, and the CEQA evaluation for the proposed project concludes that no further environmental review is required beyond the Addendum to the Final Initial Study/Mitigated Negative Declaration for the 2018 Livermore Bicycle, Pedestrian, and Trails Active Transportation Plan. The Draft CEQA Addendum is included in Attachment 2 of Exhibit B to the Resolution.

FISCAL AND ADMINISTRATIVE IMPACTS

The Arroyo Road Trail Project 2019-55 is funded in the 2023-28 Capital Improvement Plan with a total of $2,050,00 in FYs 2023-24 and 2024-25. Funding is from Park Fees (Fund 512), Measure B-Local Street & Road (Fund 832), Measure BB-Local Street & Road (Fund 552), and State Grants (Fund 240). This TDA grant of $436,280 in FY 2024-25 will be in addition to this existing funding. Combined, this funding will cover all design and construction costs. The funds will be adjusted in the 2025-2030 Capital Improvement Plan to coincide with the timing of actual expenditures. Some of the funding will be moved forward to FY 2025-26 to coincide with anticipated construction in summer/fall 2025.

COMMUNITY PILLAR

1: A Safe Community That Thrives.

GOAL

10: Work to maintain a safe and efficient local transportation network and address safety concerns.

ATTACHMENTS

1. Resolution
2. Exhibit A - TDA Article 3 Project Application Findings
3. Exhibit B - TDA Article 3 Project Application Form and Attachments

Prepared by: Joanna Liu
Senior Transportation Engineer

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING A REQUEST TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR THE ALLOCATION OF FISCAL YEAR 2024-25 TRANSPORTATION DEVELOPMENT ACT ARTICLE 3 PEDESTRIAN/BICYCLE PROJECT FUNDING TO THE LIVERMORE ARROYO ROAD TRAIL PROJECT 2019-55

WHEREAS, Article 3 of the Transportation Development Act (TDA), Public Utilities Code (PUC) Section 99200 et seq., authorizes the submission of claims to a regional transportation planning agency for the funding of projects exclusively for the benefit and/or use of pedestrians and bicyclists; and

WHEREAS, the Metropolitan Transportation Commission (MTC), as the regional transportation planning agency for the San Francisco Bay region, has adopted MTC Resolution No. 4108, Revised, entitled "Transportation Development Act, Article 3, Pedestrian/Bicycle Projects," which delineates procedures and criteria for submission of requests for the allocation of "TDA Article 3" funding; and

WHEREAS, MTC Resolution No. 4108, Revised requires that requests for the allocation of TDA Article 3 funding be submitted as part of a single, countywide coordinated claim from each county in the San Francisco Bay region; and

WHEREAS, the City of Livermore desires to submit a request to MTC for the allocation of TDA Article 3 funds to support the projects described in Exhibit B to this resolution, which are for the exclusive benefit and/or use of pedestrians and/or bicyclists.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that the City of Livermore declares it is eligible to request an allocation of TDA Article 3 funds pursuant to Section 99234 of the Public Utilities Code, and furthermore,

BE IT RESOLVED by the City Council of the City of Livermore that there is no pending or threatened litigation that might adversely affect the project or projects described in Exhibit B to this resolution, or that might impair the ability of the City of Livermore to carry out the project; and furthermore,

BE IT RESOLVED by the City Council of the City of Livermore that the City of Livermore attests to the accuracy of and approves the statements in Exhibit A to this resolution; and furthermore,

BE IT RESOLVED by the City Council of the City of Livermore that a certified copy of this resolution and its exhibits, and any accompanying supporting materials shall be forwarded to the congestion management agency, countywide transportation planning agency, or county association of governments, as the case may be, of Alameda County for submission to MTC as part of the countywide coordinated TDA Article 3 claim.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

RESOLUTION NO. _____

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – TDA Article 3 Project Application Findings
Exhibit B – TDA Article 3 Project Application Form

Exhibit A

Re: Request to the Metropolitan Transportation Commission for the Allocation of Fiscal Year FY2024-2025 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding

Findings

Page 1 of 1

1. That the City of Livermore is not legally impeded from submitting a request to the Metropolitan Transportation Commission for the allocation of Transportation Development Act (TDA) Article 3 funds, nor is the City of Livermore legally impeded from undertaking the project(s) described in "Exhibit B" of this resolution.
2. That the City of Livermore has committed adequate staffing resources to complete the project(s) described in Exhibit B.
3. A review of the project(s) described in Exhibit B has resulted in the consideration of all pertinent matters, including those related to environmental and right-of-way permits and clearances, attendant to the successful completion of the project(s).
4. Issues attendant to securing environmental and right-of-way permits and clearances for the projects described in Exhibit B have been reviewed and will be concluded in a manner and on a schedule that will not jeopardize the deadline for the use of the TDA funds being requested.
5. That the project(s) described in Exhibit B comply with the requirements of the California Environmental Quality Act (CEQA, Public Resources Code Sections 21000 et seq.).
6. That as portrayed in the budgetary description(s) of the project(s) in Exhibit B, the sources of funding other than TDA are assured and adequate for completion of the project(s).
7. That the project(s) described in Exhibit B are for capital construction and/or final design and engineering or quick build project; and/or for the maintenance of a Class I bikeway which is closed to motorized traffic and/or Class IV separated bikeway; and/or for the purposes of restriping Class II bicycle lanes; and/or for the development or support of a bicycle safety education program; and/or for the development of a comprehensive bicycle and/or pedestrian facilities plan, and an allocation of TDA Article 3 funding for such a plan has not been received by the City of Livermore within the prior five fiscal years.
8. That the project(s) described in Exhibit B which are bicycle projects have been included in a detailed bicycle circulation element included in an adopted general plan, or included in an adopted comprehensive bikeway plan (such as outlined in Section 2377 of the California Bikeways Act, Streets and Highways Code section 2370 et seq.) or responds to an immediate community need, such as a quick-build project.
9. That any project described in Exhibit B bicycle project meets the mandatory minimum safety design criteria published in the California Highway Design Manual or is in a National Association of City and Transportation Officials (NACTO) guidance or similar best practices document.
10. That the project(s) described in Exhibit B will be completed in the allocated time (fiscal year of allocation plus two additional fiscal years).
11. That the City of Livermore agrees to maintain, or provide for the maintenance of, the project(s) and facilities described in Exhibit B, for the benefit of and use by the public.

Exhibit B

TDA Article 3 Project Application Form

1. **Agency**	City of Livermore		
2. **Primary Contact**	Mallika Ramachandran		
3. **Mailing Address**	1052 S. Livermore Ave., Livermore, CA, 94550		
4. **Email Address**	mramachandran@LivermoreCA.gov	5. **Phone Number**	925-960-4511
6. **Secondary Contact** (in the event primary is not available)	Joanna Liu		
7. **Mailing address** (if different) N/A ☒			
8. **Email Address**	xliu@LivermoreCA.gov	9. **Phone Number**	925-960-4556
10. **Send allocation instructions to** (if different from above):			
11. **Project Title**	Arroyo Road Trail		
12. **Amount requested**	$436,280	13. **Fiscal Year of Claim**	FY2024-2025

14. **Description of Overall Project:**

The Arroyo Road trail is identified in the first phase of priority project in the City's Bicycle, Pedestrian, and Trails Active Transportation Plan as well as Alameda County's Bicycle and Pedestrian Plan, because it will extend the Livermore's trail network across unincorporated Alameda County jurisdiction and connect to the existing regional trail within Sycamore Grove Park.

15. **Project Scope Proposed for Funding:** (Project level environmental, preliminary planning, and ROW are ineligible uses of TDA funds.)

Construction

16. **Project Location:** A map of the project location is attached or a link to a online map of the project location is provided below:

See Attachment 1

Project Relation to Regional Policies (for information only)

17. Is the project in an Equity Priority Community? Yes☐ No☒

18. Is this project in a Priority Development Area or a Transit-Oriented Community? Yes☐ No☒

19. **Project Budget and Schedule**

Project Phase	TDA 3	Other Funds	Total Cost	Estimated Completion (month/year)
Bike/Ped Plan			N/A	N/A
ENV		$265,000	$265,000	December 2025
PA&ED			N/A	N/A
PS&E		$631,000	$631,000	May 2025
ROW		$95,000	$95,000	December 2025
CON	$436,280	$2,063,720	$2,500,000	December 2026
Total Cost	$436,280	$3,054,720	$3,491,000	

Project Eligibility

A. Has the project been reviewed by the Bicycle and Pedestrian Advisory Committee? Yes☒ No☐
If "YES," identify the date and provide a copy or link to the agenda.
If "NO," provide an explanation).
Link to the agenda for the May 9, 2024 ACTC BPAC meeting -
https://granicus_production_attachments.s3.amazonaws.com/alamedactc/4c87420fc5ae37397491d99d775ec5d50.pdf

B. Has the project been approved by the claimant's governing body? Yes☒ No☐
If "NO," provide expected date:_____

C. Has this project previously received TDA Article 3 funding? Yes☐ No☒
(If "YES," provide an explanation on a separate page)

D. For "bikeways," does the project meet Caltrans minimum safety design criteria pursuant to Chapter 1000 of the California Highway Design Manual? Yes☒ No☐

E. **1.** Is the project categorically exempt from CEQA, pursuant to CCR Section 15301(c), Existing Facility? Yes☐ No☒

2. If "NO" above, is the project is exempt from CEQA for another reason? Yes☐ No☒
Cite the basis for the exemption. _____ N/A☐
If the project is not exempt, please check "NO," and provide environmental documentation, as appropriate.
See Attachment 2 – Draft CEQA Addendum.

F. Estimated Completion Date of project (month and year): December 2026

G. Have provisions been made by the claimant to maintain the project or facility, or has the claimant arranged for such maintenance by another agency? (If an agency other than the Claimant is to maintain the facility, please identify below and provide the agreement. Yes☒ No☐

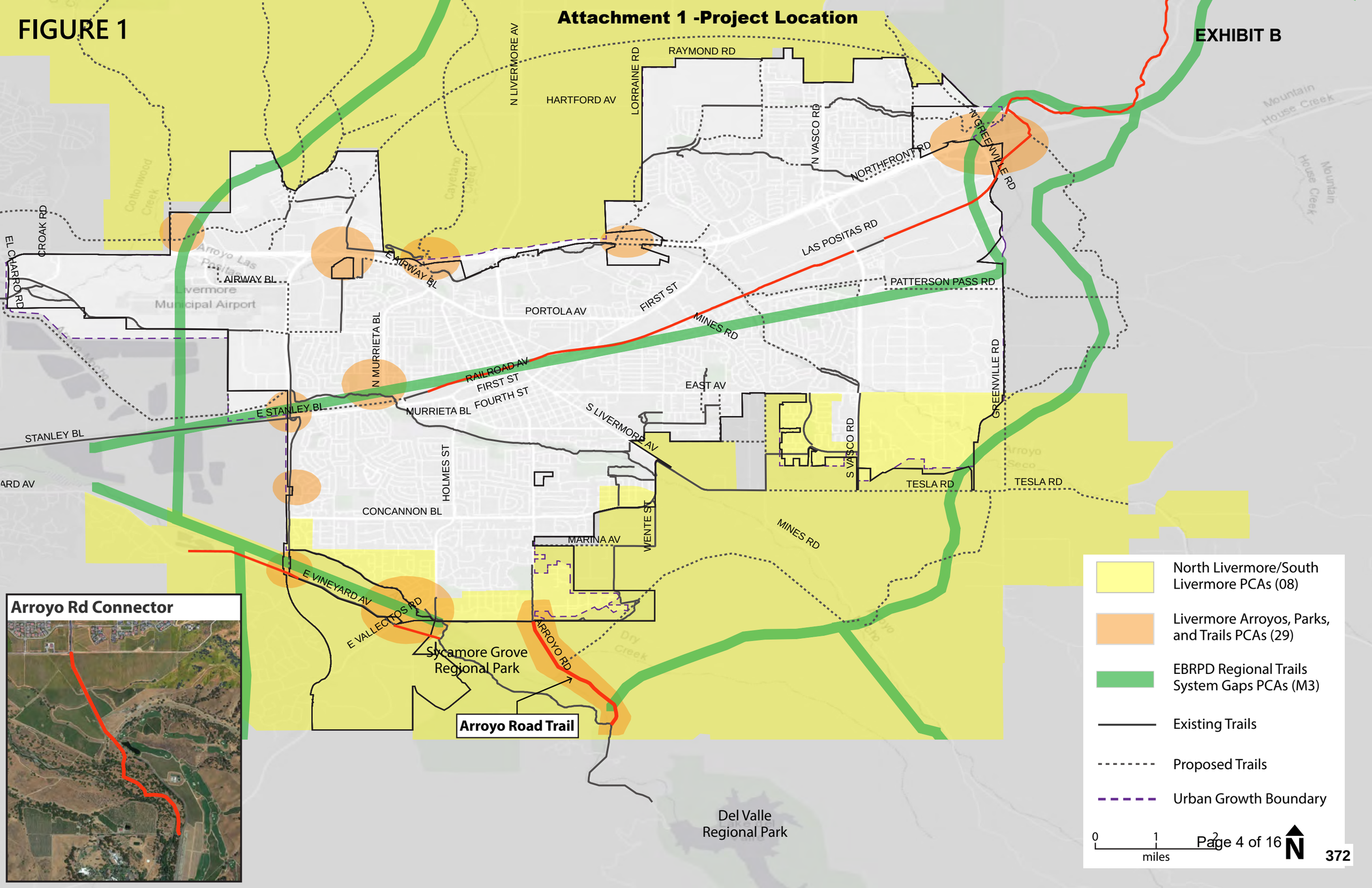
H. Is a Complete Streets Checklist required for this project? Yes☒ No☐
If the amount requested is over $250,000 or if the total project phase or construction

phase is over $250,000, a Complete Streets checklist is likely required. Please attach the Complete Streets checklist or record of review, as applicable. More information and the form may be found here: https://mtc.ca.gov/planning/transportation/complete-streets

FIGURE 1

Attachment 1 -Project Location

EXHIBIT B



LSA

MEMORANDUM

CARLSBAD
CLOVIS
IRVINE
LOS ANGELES
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROSEVILLE
SAN LUIS OBISPO

Draft CEQA Addendum

DATE: July 17, 2024

TO: Megan Cronan, Principal, Civil Engineering Manager

FROM: Shanna Guiler, Associate/Senior Planner, Project Manager

SUBJECT: **Draft CEQA Addendum to the Initial Study/Mitigated Negative Declaration for The Arroyo Trail Project 2019-55**

INTRODUCTION

The Arroyo Road Trail Project is identified in the first phase of priority projects in the City's Bicycle, Pedestrian, and Trails Active Transportation Plan (ATP) [1] as well as Alameda County's Bicycle and Pedestrian Plan. The Arroyo Road trail segment is identified as Segment B of Trail No. 13 in the ATP. The recommended improvement in the ATP for this trail segment is a Class 1A Shared Use Path along Arroyo Road from Wetmore Road to the existing Arroyo Del Valle Regional Trail within Sycamore Grove Park, including a pedestrian and bicycle bridge crossing at Dry Creek (ATP Planned Project). The required cross section for Class 1A Shared Use Path is a minimum 8-foot trail width and 2-foot shoulder.

The City of Livermore's proposed Arroyo Road Trail Project 2019-55 is an approximately 1.4-mile paved trail gap closure along Arroyo Road from Wetmore Road to the existing Arroyo Del Valle Regional Trail within Sycamore Grove Park. It includes a 115-foot pedestrian and bicycle bridge over Dry Creek (Proposed Project). The Proposed Project would provide a 10-foot-wide paved trail with a 3-foot shoulder. The proposed creek crossing would consist of a prefabricated clear span bridge approximately 115 feet long by 10 feet wide. The project would improve access and connectivity to the regional trail system and would provide new opportunities for outdoor recreation, benefiting the local community and visitors alike.

In 2018, the City adopted an Initial Study/Mitigated Negative Declaration (2018 IS/MND)[2] for the ATP. The 2018 IS/MND analyzed impacts related to implementation of the ATP, including construction and operation of the ATP Planned Project. This document, prepared pursuant to the California Environmental Quality Act (CEQA) and the regulations and policies of the City, is an Addendum to the 2018 IS/MND. This draft addendum describes the proposed Arroyo Road Trail Project 2019-55 (Proposed Project), evaluates the potential environmental impacts of the Proposed Project and provides a determination that the Proposed Project is addressed within the scope of the 2018 IS/MND and no further environmental review is required. The City of Livermore is the Lead Agency for the CEQA environmental review.

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1 Alta Planning + Design. 2018. Prepared for the City of Livermore. *City of Livermore Bicycle, Pedestrian, and Trails Active Transportation Plan*. June 11.

2 City of Livermore. 2018. *Public Review Draft Livermore Active Transportation Plan Initial Study/Mitigated Negative Declaration, Livermore, California.* Prepared by LSA Associates, Inc. April.

CEQA FRAMEWORK FOR USE OF AN ADDENDUM

This Addendum is prepared pursuant to CEQA Guidelines Section 15164(b) which states: "An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for preparation of a subsequent EIR or negative declaration have occurred" Section 15162 specifies that "no subsequent EIR [or MND] shall be prepared for that project unless the lead agency determines … one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR [or MND] due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR [or MND] due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR [or MND] was certified as complete was adopted, shows any of the following:

    a. The project will have one or more significant effects not discussed in the previous EIR [or MND];

    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR [or MND];

    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

    d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR [or MND] would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative."

Pursuant to CEQA Guidelines Section 15164(e), this Addendum summarizes the changes to the proposed project evaluated in the 2018 IS/MND and the reasons for the City's conclusion that changes to the proposed project and associated environmental effects do not meet the conditions described in CEQA Guidelines Section 15162 requiring preparation of a subsequent IS/MND.

PROJECT BACKGROUND

The 2018 IS/MND evaluated the potential environmental impacts anticipated to result from the implementation of the updated Bicycle, Pedestrian, & Trails Active Transportation Plan (ATP), which encompassed programs, policies, and network recommendations for improving pedestrian and bicycle facilities and paths. The ATP plan aimed to enhance Livermore's bicycle and pedestrian infrastructure, improve safety for cyclists and pedestrians, and promote bicycling and walking as viable transportation options throughout the city. The ATP proposed a total of 252.25 acres of network improvements and 58 total crossing improvements. Adopted on June 11, 2018,

the ATP replaced the 2001 Bikeways and Trails Master plan, adding a pedestrian emphasis and updating the plan to meet the current physical environment and public policy conditions.

The City currently has approximately 40 miles of Class I paved shared use paths designed for bicycling, walking, and horseback riding. While equestrians are allowed on all existing trails, trails constructed in South Livermore Valley generally provide a separate unpaved path for horses. The existing trail network is partially developed throughout portions of the City.

The ATP identifies challenges and recommends implementation strategies to improve walking, biking, and trails in Livermore. The existing and proposed trail network is intended to provide separated and comfortable access to community facilities, schools, and transit. The trail network also provides recreational opportunity and connection to neighborhood and regional parks. The ATP Planned Project consists of a Class 1A Shared Use Path along Arroyo Road from Wetmore Road to the existing Arroyo Del Valle Regional Trail within Sycamore Grove Park, including a pedestrian and bicycle bridge crossing at Dry Creek. The required cross section for Class 1A Shared Use Path is a minimum 8-foot trail width and 2-foot shoulder.

PROPOSED PROJECT

The City of Livermore's proposed Arroyo Road Trail Project 2019-55 (Proposed Project) is an approximately 1.4-mile, 10-foot-wide, paved trail with 3-foot shoulders along Arroyo Road from Wetmore Road to the existing Arroyo Del Valle Regional Trail within Sycamore Grove Park. It includes a 115-foot-long by 10-foot-wide prefabricated clear span pedestrian and bicycle bridge over Dry Creek. The project closes the gap between the existing City trail at Wetmore Road and the Arroyo Del Valle Regional Trail at the west entrance of Sycamore Grove Park. The proposed trail would extend from Olivina's Gate, approximately 0.5-mile to Dry Creek and would be constructed on an existing vineyard maintenance road within the Wente Vineyards property. The southern segment would extend from Dry Creek to the Arroyo Del Valle Trail and would be constructed on an existing unpaved trail path within Sycamore Grove Park. The proposed trail would be designed in accordance with the City's standard for multi-use trails.

Project construction would take approximately 10 months and would occur in a single phase. Typical working hours would be 8:00 to 5:00 p.m. Monday through Friday.

ANALYSIS OF POTENTIAL ENVIRONMENTAL EFFECTS

The following includes an evaluation of the potential environmental effects of the Proposed Project, compared to the impacts identified for implementation of the ATP Planned Project in the 2018 IS/MND. This analysis is used to: (1) compare the environmental impacts of the Proposed Project with impacts expected to result from development of the ATP Planned Project and evaluated in the 2018 IS/MND; (2) to identify whether the Proposed Project would result in new or more severe significant environmental impacts; and (3) to identify if there have been substantial changes with respect to the circumstances under which the Proposed Project would be undertaken since the 2018 IS/MND was adopted that would result in new or more severe significant environmental effects. This analysis confirms that the Proposed Project is within the scope of the 2018 IS/MND, and the Proposed Project would cause no new or more severe significant effects and no new mitigation measures are required.

The following discussion has been undertaken pursuant to the provisions of CEQA Guidelines Sections 15162 and 15164 to provide the City with the factual basis for determining whether any changes in the project, any changes in circumstance, or any new information since the 2018 IS/MND was adopted requires additional environmental review.

Aesthetics

Section 4.1 of the 2018 IS/MND analyzed the visual conditions of the ATP Planned Project planning area. Less than significant impacts to aesthetics were identified in the 2018 IS/MND. Similar to the ATP Planned Project, implementation of the Proposed Project would result in the development of improvements for the City's bicycle and pedestrian network, generally consisting of at-grade surface-level improvements that would not obstruct scenic views, damage scenic resources, or result in significant changes to the visual character of the City.

The Proposed Project would construct an approximately 1.4-mile, 10-foot-wide paved trail with 3-foot-wide shoulders along Arroyo Road from Wetmore Road to the existing Arroyo Del Valle Regional Trail within Sycamore Grove Park, including a 115-foot-long by 10-foot-wide prefabricated clear span pedestrian and bicycle bridge over Dry Creek.

Therefore, the Proposed Project would not have a substantial effect on scenic vistas or existing visual resources nor would it degrade the existing visual character or quality of the site**. *No new impacts or increase in severity of impacts would occur.***

Agricultural Resources

Section 4.2 of the 2018 IS/MND analyzed the impacts on agricultural resources, identifying less than significant impacts. Similar to the ATP Planned Project area, the Proposed Project encompasses areas classified as Prime Farmland, Unique Farmland, and land subject to Williamson Act contracts. However, like the ATP Planned Project, implementation of the Proposed Project would not involve the conversion of agricultural land, nor would it conflict with existing Williamson Act contracts, as the land use would remain unchanged. ***No new impacts or increase in severity of impacts would occur.***

Air Quality

Section 4.3 of the 2018 IS/MND analyzed impacts to air quality associated with implementation of the ATP. The 2018 IS/MND identified temporary short-term, construction-related impacts to air quality, which would be less than significant with implementation of Mitigation Measure AIR-1. No long-term operational impacts were identified. Similar to the ATP Planned Project, the Proposed Project would not conflict with or obstruct the implementation of the applicable air quality plan, violate air quality standards, or result in a cumulatively considerable net increase in any criteria pollutant. Construction of the Proposed Project would utilize similar construction techniques identified in the 2018 IS/MND. Implementation of Mitigation Measure AIR-1 identified in the 2018 IS/MND, would ensure that impacts related to air quality would be reduced to less than significant levels. ***No new impacts or increase in severity of impacts would occur and no additional mitigation measures are required.***

Biological Resources

Section 4.4 of the 2018 IS/MND analyzed impacts to biological resources associated with the implementation of the proposed project. The 2018 IS/MND determined that impacts related to special-status species, sensitive natural communities, nesting birds, riparian woodlands, and seasonal wetlands associated with Dry Creek, Arroyo Valle Creek, and wetland channels would be less than significant with mitigation incorporated. Additionally, the 2018 IS/MND concluded that the ATP planning area is located within the boundaries of the East Alameda County

Conservation Strategy (EACCS)[3] area. Although the EACCS is not considered a formal Habitat Conservation Plan (HCP), a Programmatic Biological Opinion (PBO) has been issued to the Corps for projects that impact Corps jurisdiction in the EACCS area.

The Proposed Project would be located within the same planning area as the ATP Planned Project and would be subject to similar biological conditions. In accordance with Mitigation Measure BIO-1 in the 2018 IS/MND, a biological resources assessment was prepared for the Proposed Project (Attachment A), which included background research and a reconnaissance-level field survey of the Proposed Project site. As described in the Biological Resources Assessment, impacts to biological resources would be similar to those analyzed for the proposed project in the 2018 IS/MND. Implementation of Mitigation Measures BIO-2 through BIO-12, identified in the 2018 IS/MND would ensure that impacts would be reduced to less than significant levels. ***No new impacts or increase in severity of impacts would occur and no additional mitigation measures are required.***

Cultural Resources

Section 4.5 of the 2018 IS/MND analyzed impacts to cultural resources associated with implementation of the proposed project. The IS/MND determined that impacts to previously unidentified archaeological and paleontological deposits as a result of ground disturbing activities would be less than significant with mitigation incorporated. The Proposed Project would be located within the same area as the ATP Planned Project and would construct a multi-use paved trail, and a free span bridge. The depth of excavation and fill for the trail bed would not exceed 10 feet. Similar to the ATP Planned Project, the Proposed Project has the potential to encounter cultural deposits during ground disturbing activities. Implementation of Mitigation Measures CULT-1, CULT-2, and CULT-3 identified in the 2018 IS/MND would ensure that impacts would be reduced to less than significant levels. ***No new impacts or increase in severity of impacts would occur and no additional mitigation measures are required.***

Energy

Since adoption of the 2018 IS/MND, the CEQA Checklist has been updated to include a discussion of potential project impacts related to energy. As energy was not addressed were not evaluated in the 2018 IS/MND, the Proposed Project's potential to result in a potentially significant environmental impact due to wasteful, inefficient or unnecessary consumption of energy resources or to conflict with or obstruct a state or local plan for renewable energy or energy efficiency is described below.

Construction of the Proposed Project would require the use of energy to fuel grading vehicles, trucks, and other construction vehicles. All or most of this energy would be derived from non-renewable resources. In order to increase energy efficiency on the site during project construction, the project would restrict equipment idling times to 5 minutes or less and would require construction workers to shut off idle equipment, as required by the BAAQMD's Basic Construction Mitigation Measures (Mitigation Measure AIR-1, identified in the 2018 IS/MND). In addition, construction activities are not anticipated to result in an inefficient use of energy as gasoline and diesel fuel would be supplied by construction contractors who would conserve the use of their supplies to minimize their costs on the project. Energy usage on the project site during construction would be temporary in nature and would be relatively small in comparison to the

[3] ICF International, 2010, op. cit.

State's available energy sources. Therefore, construction energy impacts would be less than significant.

Typically, energy consumption is associated with fuel used for vehicle trips and natural gas and energy use. However, the ATP Planned Project would implement bicycle and pedestrian facilities including network improvements. Similarly, the Proposed Project would construct a multi-use paved trail between the existing City trail at Wetmore Road and the Arroyo Del Valle Regional Trail at the west entrance of Sycamore Grove Park. Therefore, the Proposed Project would promote the use of alternative modes of transportation, which allow for a decreased dependence on nonrenewable energy resources. Operation of the Proposed Project would not require the consumption of natural gas. Energy consumed by the Proposed Project might only be associated with minimal electricity consumption associated with a potential electric access gate that may be incorporated to benefit an adjacent property. Therefore, implementation of the Proposed Project would not result in a long-term substantial demand for electricity and natural gas nor would the project require new service connections or construction of new off-site service lines or substations to serve the project. The nature of proposed improvements would not require substantial amounts of energy for either construction or maintenance purposes. Therefore, the Proposed Project would not use non-renewable resources in a wasteful or inefficient manner.

As indicated above, energy usage on the project site during construction would be temporary in nature. In addition, energy usage associated with operation of the Proposed Project would be relatively small in comparison to the State's available energy sources and energy impacts would be negligible at the regional level. Because California's energy conservation planning actions are conducted at a regional level, and because the project's total impact to regional energy supplies would be minor, the Proposed Project would not conflict with California's energy conservation plans. Further, the Proposed Project includes pedestrian and bicycle safety improvements to promote the use of alternative modes of transportation, which allow for a decreased dependence on nonrenewable energy resources. Thus, as shown above, the Proposed Project would avoid or reduce the inefficient, wasteful, and unnecessary consumption of energy and not result in any irreversible or irretrievable commitments of energy. Impacts would be less than significant. ***No new impacts or increase in severity of impacts would occur.***

Geology and Soils

Section 4.7 of the 2018 IS/MND analyzed the geological, seismic, and soil conditions within the project area and potential impacts relating to geology and soils with implementation of the ATP. The 2018 IS/MND determined that implementation of the ATP would not cause substantial adverse effects due to rupture of a known earthquake fault, strong seismic ground shaking, seismic relation ground failure such as liquefaction, or landslides. Further, the 2018 IS/MND determined that the project would not result in substantial soil erosion or the loss of topsoil or be located on an unstable geologic units or expansive soil. Areas susceptible to erosion would be required to comply with the City's building code and adhere to the National Pollutant Discharge Elimination System (NPDES) stormwater permit provisions. Construction of the Proposed Project would occur in the same vicinity as the ATP Planned Project and would be subject to similar geological and soil conditions. As such, impacts related to geology and soils would be similar to the project, and less than significant. No additional impacts or increase in the severity of impacts would occur with implementation of the Proposed Project. Compliance with the NPDES stormwater permit would ensure that impacts related to soil erosion would be reduced to less than significant levels. ***No new impacts or increase in severity of impacts would occur.***

Greenhouse Gas Emissions

Similar to the ATP Planned Project, the Proposed Project would not result in significant, long-term GHG emissions, as the Proposed Project consists of pedestrian and bicycle improvements and would not generate vehicle trips and/or source emissions that would contribute to an increase in GHG emissions. Like the ATP Planned Project, the Proposed Project would result in minor alterations to local pedestrian, bicycle, and vehicular circulation patterns, increasing walking and bicycling, which would contribute to a reduction in overall vehicular emissions of GHG emissions in Livermore.

As described in the 2018 IS/MND, construction activities related to the ATP Planned Project, such as site preparation, site grading, on-site heavy-duty construction vehicles and motor vehicles transporting the construction crew would produce combustion emissions from various sources. Construction of the Proposed Project would utilize similar construction techniques identified in the 2018 IS/MND; therefore, construction emissions would be considered less than significant. Further, implementation of Mitigation Measure AIR-1, as discussed in the Air Quality Section, would reduce construction GHG emissions by limiting construction idling emissions.

The Proposed Project would not generate significant greenhouse gas emissions, either directly or indirectly that would have a significant impact on the environment or conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. ***No new impacts or increase in severity of impacts would occur and no additional mitigation measures are required.***

Hazards and Hazardous Materials

Section 4.8 of the 2018 IS/MND analyzed impacts related to hazards and hazardous materials that would be associated with implementation of the ATP Planned Project. All impacts related to hazards and hazardous materials were determined to be less than significant. The 2018 IS/MND identified approximately 145 listed hazardous materials release sites listed throughout Livermore.

Similar to the ATP Planned Project, the Proposed Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. A review of the Regional Water Quality Control Board (RWQCB) GeoTracker website[4] and the California Department of Toxic Substances Control (DTSC) EnviroStor website,[5] indicates that there are no listed hazardous materials sites in the vicinity of the Proposed Project. Like the ATP Planned Project, improvements contemplated as part of the Proposed Project would generally require small amounts of ground disturbance such that no large-scale release of contaminated soils or groundwater would occur. Hazardous materials, including commercially-available pesticides, fuels, and paints, would be used temporarily during construction. However, similar to the ATP Planned Project, the City would be required to comply with all State and regulatory agency requirements when using hazardous materials. ***No new impacts or increase in severity of impacts would occur.***

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4 State Water Resources Control Board. GeoTracker. (2024) Website: geotracker.waterboards.ca.gov (accessed July 2024).

5 Department of Toxic Substances Control. EnviroStor. Website: www.envirostor.dtsc.ca.gov/public (accessed July 2024).

Hydrology and Water Quality

Section 4.9 of the 2018 IS/MND analyzed impacts to hydrology and water quality associated with implementation of ATP Planned Project. The 2018 IS/MND determined that implementation of the ATP would have a less-than-significant impact on water quality standards and waste discharge requirements. The 2018 IS/MND identified an increase in impervious surfaces at various locations within the ATP planning area; however, as each project implemented as part of the ATP, including the ATP Planned Project, would be required to comply with the City's building code and adhere to the National Pollutant Discharge Elimination System (NPDES) stormwater permit provisions (if required), impacts related to stormwater runoff were determined to be less than significant. The 2018 determined that the majority of projects identified in the ATP are located in an area of minimal flooding; however, 100-year flood zones are located along Arroyo Del Valle in the southwest portion of the ATP planning area, in the vicinity of the ATP Planned Project. However, the 2018 IS/MND determined that compliance with General Plan objectives and policies would ensure that implementation of the ATP would have a less-than-significant impact related to 100-year flood flows.

The Proposed Project would be located in the same vicinity as the ATP Planned Project, use similar construction techniques, and be subject to the same hydrological conditions. No new hydrological resources would be impacted with implementation of the Proposed Project and no increase in impacts would occur. Similar to the ATP Planned Project, the Proposed Project would be required to comply with General Plan policies and objectives to ensure that implementation of the Proposed Project would have a less-than-significant impact on flood flows. Specifically, General Plan Objective PS-2.1, Policy 3, requires improvements that create new impervious surfaces that might alter flood flows (such as a new bridge) to prepare a drainage study to assess stormwater runoff impacts on the local and regional storm drain and flood control system, and to develop recommended detention and drainage facilities to ensure that increased risks of flooding do not result from development. Additionally, per General Plan Objective PS-2.1, Policy 7, public service facilities existing in 100-year flood zones shall be flood-proofed to a point at or above the base flood elevation. ***No new impacts or increase in severity of impacts would occur.***

Land Use

Section 4.10 of the 2018 IS/MND analyzed impacts to land use and planning associated with implementation of the proposed. The Proposed Project would be constructed in the same vicinity as the ATP Planned Project and would be subject to the same land use plans discussed in the 2018 IS/MND, including the City of Livermore General Plan. Similar to the ATP Planned Project, the Proposed Project would not physically divide an established community or conflict with a habitat conservation plan or natural community conservation plan. The Proposed Project, similar to the ATP Planned Project, is consistent with the goals and policies contained in the City of Livermore General Plan 2022 Update, the City of Livermore Municipal Code, and other City and County planning documents. Furthermore, the Proposed Project would not change the City land use or zoning designations in the project area and is compatible with existing land uses along the alignment. ***No new impacts or increase in severity of impacts would occur.***

Mineral Resources

Section 4.11 of the 2018 IS/MND analyzed potential impacts on mineral resources with implementation of the ATP and identified less than significant impacts. As described in the 2018 IS/MND, the City of Livermore General Plan identifies multiple areas within Livermore as having mineral resource which have Statewide or regional significance; however, improvements associated with the ATP would generally be located within existing rights-of-way, most of which are already paved and improvements implemented as part of the proposed Plan would not result

in the loss of availability of a known mineral resource as there would be no change in land uses within the ATP Planning Area. Like the ATP Planned Project, the Proposed Project is not located in an area that would result in the loss of availability of a known mineral resource or a locally important mineral resource recovery site. ***No new impacts or increase in severity of impacts would occur.***

Noise

Section 4.12 of the 2018 IS/MND analyzed potential noise impacts associated with implementation of the ATP. The 2018 IS/MND identified temporary, short-term, noise impacts associated with construction of the ATP Planned Project. Construction noise would result in a temporary or periodic increase in ambient noise levels in the project vicinity. To reduce any potential noise impact to off-site sensitive receptors, the 2018 IS/MND identified Mitigation Measure NOI-1 to reduce potential construction period noise impacts to less than significant levels. Impacts related to operational noise, vibration and airport—related noise were determined to be less than significant.

Similar to the ATP Planned Project, construction of the Proposed Project would result in a temporary increase in ambient noise levels and ground borne vibration in the project area. As the Proposed Project would be located on the same site as the ATP Planned Project, implementation of the Proposed Project would result in similar construction noise impacts as the ATP Planned Project and would be required to implement Mitigation Measure NOI-1. With implementation of Mitigation Measure NOI-1, impacts associated with construction noise would be similar to the ATP Planned Project and would be less than significant. In addition, similar to the ATP Planned Project, no pile driving or other construction activity that would generate excessive ground borne vibration would be required to construct the Proposed Project. In addition, project construction would be required to comply with the City's noise standards for construction activities (Section 9.36.080 of the City's Municipal Code, which regulates the hours of construction activities). Therefore, the Proposed Project, like the ATP Planned Project, would not expose people to or generate excessive ground borne vibration or noise, and the impacts associated with the temporary increase in noise levels during the construction period would be less than significant.

Implementation of Mitigation Measure NOI-1 as identified in the 2018 IS/MND would remain applicable to the Proposed Project and ensure that all temporary construction noise impacts would be reduced to less than significant levels. ***No new impacts or increase in severity of impacts would occur.***

Population and Housing

Section 4.13 of the 2018 IS/MND analyzed impacts to population and housing associated with the proposed project. No impacts to population and housing were identified in the 2018 IS/MND. Similar to the ATP Planned Project, the Proposed Project would not induce substantial growth, displace any existing housing units or people, and would not necessitate the construction of replacement housing elsewhere. ***No new impacts or increase in severity of impacts would occur.***

Public Services

Section 4.14 of the 2018 IS/MND analyzed impacts to public services associated with the ATP Planned Project. Less than significant impacts were identified. Similar to the ATP Planned Project, the Proposed Project would not require the construction of new or physically altered governmental facilities in order to maintain acceptable service ratios, response times, or other performance standards for fire protection, police protection, schools, parks, or other public facilities. Public

services impacts would be less than significant. ***No new impacts or increase in severity of impacts would occur.***

Recreation

Section 4.15 of the 2018 IS/MND analyzed impacts to recreation associated with the ATP Planned Project. Less than significant impacts were identified. Implementation of the ATP Planned Project would generally result in bicycle and pedestrian improvement projects within existing rights-of-way, increase connections between existing recreational facilities and parks, and would incrementally increase the use of these facilities. However, such an increase in use is not anticipated to result in a significant increase in use of recreation facilities such that substantial physical deterioration of the facility would occur or be facilitated. Similar to the ATP Planned Project, the Proposed Project would not increase the use of existing recreational facilities, nor would it create a need for additional recreation services. ***No new impacts or increase in severity of impacts would occur.***

Transportation

Section 4.16 of the 2018 IS/MND analyzed impacts to transportation/traffic associated with the ATP Planned Project and identified less than significant impacts. Similar to the ATP Planned Project, the Proposed Project would improve the City's bicycle and pedestrian infrastructure, enhance bicycle and pedestrian safety, and encourage bicycling and walking as a viable form of transportation throughout Livermore. The Proposed Project would not generate new vehicle trips during the operational period. Further, as the Proposed Project would construct a Class 1a, separated, multi-use, paved trail, it would not reduce vehicle capacity of intersections or result in changes to the roadway right-of-way. The Proposed Project, like the ATP Planned Project, has been identified in numerous plans and policy documents as a future bicycle and pedestrian improvement. The Proposed Project would not result in transportation impacts related to vehicle miles traveled. ***No new impacts or increase in severity of impacts would occur.***

Tribal Cultural Resources

Section 4.17 of the 2017 IS/MND analyzed impacts to tribal cultural resources associated with the proposed project. No impacts to tribal resources were identified. The CEQA process requires consultation with Native Americans under Assembly Bill (AB) 52. As stated in the 2018 IS/MND, on February 14, 2018, the City provided formal notification to interested Native American tribes that may be culturally or traditionally affiliated with the project area and vicinity to conduct consultation. The City received no responses from the tribal representatives during the 30-day comment period.

The 2018 IS/MND determined that with implementation of Mitigation Measures CULT-1 and CULT-3, potential impacts on tribal cultural resources would be less than significant. As the Proposed Project would be located on the same site as the ATP Planned Project, potential impacts on tribal cultural resources would be similar to those discussed in the 2018 IS/MND and during tribal consultation efforts. The Proposed Project would also be required to implement Mitigation Measures CULT-1 and CULT-3, and as such, potential impacts on tribal cultural resources would be similar to the approved project and would be less than significant. ***No new impacts would occur and no additional mitigation measures are required.***

Utilities and Service Systems

Section 4.18 of the 2018 IS/MND analyzed impacts to utilities and service systems associated with the proposed project. Less than significant impacts were identified in the 2018 IS/MND. Like

the ATP Planned Project, the Proposed Project would not generate a new demand for wastewater treatment, require the construction of new/expansion of existing water or wastewater treatment facilities, or generate solid waste that would exceed landfill capacity. The Proposed Project would include two drainage crossings requiring culvert construction; however, these facilities would not result in the construction or expansion of storm water drainage facilities. ***No new impacts or increase in severity of impacts would occur.***

Wildfire

Risks associated with wildfire were evaluated in Section 4.8.h, Hazards and Hazardous Materials, of the 2018 IS/MND. The Proposed Project would construct an approximately 1.4-mile-long, multi-use paved trail segment between the existing City trail at Wetmore Road and the Arroyo Del Valle Regional Trail at the east entrance of Sycamore Grove Park. Like the ATP Planned Project, the Proposed Project would not introduce inappropriate uses or materials such as housing or a large amount of fire-susceptible vegetation to the site that would increase the risk of wildland fire. ***No new impacts or increase in severity of impacts would occur.***

COMPARISON TO THE CONDITIONS LISTED IN CEQA GUIDELINES SECTION 15162

The following discussion summarizes the reasons that a new or subsequent IS/MND or EIR, pursuant to CEQA Guidelines Sections 15162, is not required to evaluate the environmental effects of the Proposed Project. The analyses prepared for each CEQA topic in the previous sections demonstrate that the Proposed Project is addressed within the scope of the 2018 IS/MND, and no new significant impacts are identified, no significant impacts are more severe, no new mitigation measures are required, and no substantial changes to the existing environmental circumstances have occurred leading to new or more severe previously identified significant impacts.

Substantial Changes to the Project

As discussed above in the Project Description, the Proposed Project has not substantially changed from the ATP Planned Project identified and evaluated in the 2018 IS/MND. Additionally, the changes identified for the Proposed Project do not substantially change the scope of proposed improvements proposed and evaluated in the 2018 IS/MND. As such, an Addendum is the appropriate document to address these minor modifications rather than a Subsequent IS/MND or EIR.

Substantial Changes in Circumstances

As described for each CEQA topic in the previous sections, the existing environmental conditions or circumstances in and around the project site have not changed such that implementation of the Proposed Project would result in new significant environmental effects or a substantial increase in the severity of significant environmental effects identified in the 2018 IS/MND, and thus major revisions to the 2018 IS/MND are not required.

New Information

No new information of substantial importance, which was not known and could not have been known when the 2018 IS/MND was adopted, has been identified to show that the Proposed Project would be expected to result in: 1) new significant environmental effects not identified in the 2018 IS/MND; 2) substantially more severe environmental effects than shown in the 2018 IS/MND; 3) mitigation measures or alternatives previously determined to be infeasible would in

fact be feasible and would substantially reduce one or more significant effects of the project, but the project sponsor declines to adopt the mitigation measure or alternative; or 4) mitigation measures or alternatives which are considerably different from those identified in the 2018 IS/MND would substantially reduce one or more significant effects of the project but the project sponsor declines to adopt the mitigation measure or alternative. In addition, the Proposed Project would require no new mitigation measures because no new or substantially more severe impacts are expected beyond those identified in the 2018 IS/MND.

CONCLUSION

On the basis of the evaluation presented above, the Proposed Project, if implemented, would not trigger any of the conditions listed under the CEQA Framework for Use of an Addendum section of this Addendum, requiring preparation of a subsequent or supplemental IS/MND. Thus, this Addendum satisfies the requirements of CEQA Guidelines Section 15162 and 15164.

Implementation of the Proposed Project would include the construction of an approximately 1.4-mile-long, multi-use paved trail segment between the existing City trail at Wetmore Road and the Arroyo Del Valle Regional Trail at the east entrance of Sycamore Grove Park. The Proposed Project would not introduce new significant environmental effects, substantially increase the severity of previously identified significant environmental effects or demonstrate that mitigation measures or alternatives previously found not to be feasible would in fact be feasible. The Proposed Project would not alter the findings in the 2018 IS/MND. In addition, no change has occurred with respect to the circumstances surrounding the proposed project that would cause new or substantially more severe significant environmental effects than identified in the 2018 IS/MND, and no new information has become available that shows that the project would cause significant environmental effects not already analyzed in the 2018 IS/MND. Therefore, no further environmental review is required beyond this Addendum to the 2018 IS/MND.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.10**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brandon Cardwell, Innovation and Economic Development Director

SUBJECT: Resolution authorizing execution of lease agreements with New Cingular Wireless PCS, LLC for the construction and maintenance of telecommunications facilities on City property located at 2705 Ames Street and 3663 Pacific Avenue.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute lease agreements with New Cingular Wireless PCS, LLC for the construction and maintenance of wireless telecommunications facilities on City property located at 2705 Ames Street and 3663 Pacific Avenue.

SUMMARY

New Cingular Wireless PCS, LLC (Lessee), a telecommunications operator, approached staff with a request to lease a portion of two City-owned properties to install wireless telecommunications facilities at 2705 Ames Street and 3663 Pacific Avenue. Lessee is proposing to co-locate wireless antenna facilities on an existing PG&E tower at 2705 Ames Street and an existing Verizon wireless antenna tower at 3663 Pacific Avenue, as well as installation of ground equipment to support the operation of the wireless antenna facilities at each site. Installation of telecommunication facilities on City properties requires a lease between New Cingular Wireless PCS, LLC and the City. These facilities will increase cellular coverage in these areas of the community, as well as generate revenue for the City. Staff recommends the City Council adopt a resolution authorizing the City Manager to execute the lease agreements with New Cingular Wireless PCS, LLC.

DISCUSSION

Due to the increased demand for cellular coverage throughout the City of Livermore, the Lessee desires to erect wireless antennas on an existing PG&E tower at 2705 Ames Street and on an existing Verizon wireless antenna tower at 3663 Pacific Avenue. PG&E has granted permission for the Lessee to install wireless antennas on PG&E's tower, and Verizon has granted the Lessee permission to co-locate wireless antennas on Verizon's existing tower. PG&E has an existing easement for their tower and overhead transmission power lines on the City property at 2705 Ames Street, and Verizon has a current lease with the City for their existing wireless telecommunication facility at 3663 Pacific Avenue. The

Lessee's ground equipment, which will be installed and maintained by the Lessee within the leased areas of these proposed lease agreements, will support the operation of wireless antenna facilities at each site.

Access to the 2705 Ames Street site will be off Ames Street, as the facility is located adjacent to the street. Access to the 3663 Pacific Avenue site will be from South Livermore Avenue along the parking drive isle on the south side of the existing Civic Center Library using the access gravel road. This is the same road used by Verizon to access their existing telecommunications facility.

Each lease agreement has an initial lease term of five (5) years with the option to extend the lease agreement for three (3) additional five (5) year terms, for a potential total lease term of 20 years.

FISCAL AND ADMINISTRATIVE IMPACTS

Revenues from these leases will be deposited in the City's General Fund. Within 30 days of the effective date of the lease agreement at 2705 Ames Street, Lessee will pay the City a $7,500 one-time payment to cover City staff time in the preparation and recording of the lease. Within 30 days of the effective date of the lease agreement at 3663 Pacific Avenue, the Lessee will pay the City a $6,500 one-time payment to cover City staff time in the preparation and recording of the lease. The annual rental revenue from the lease agreement at 2705 Ames Street is approximately $37,200. The annual rental revenue from the lease agreement at 3663 Pacific Avenue is approximately $24,000. The rental rate for each of the lease agreements will increase by 3.5% annually.

COMMUNITY PILLAR

5: A City that Works

GOAL

14: Develop, operate, and maintain City's infrastructure

ATTACHMENTS

1. Location Map 2705 Ames Street
2. Location Map 3663 Pacific Ave
3. Resolution
4. Exhibit A - Lease Agreement 2705 Ames Street
5. Exhibit B - Lease Agreement 3663 Pacific Avenue

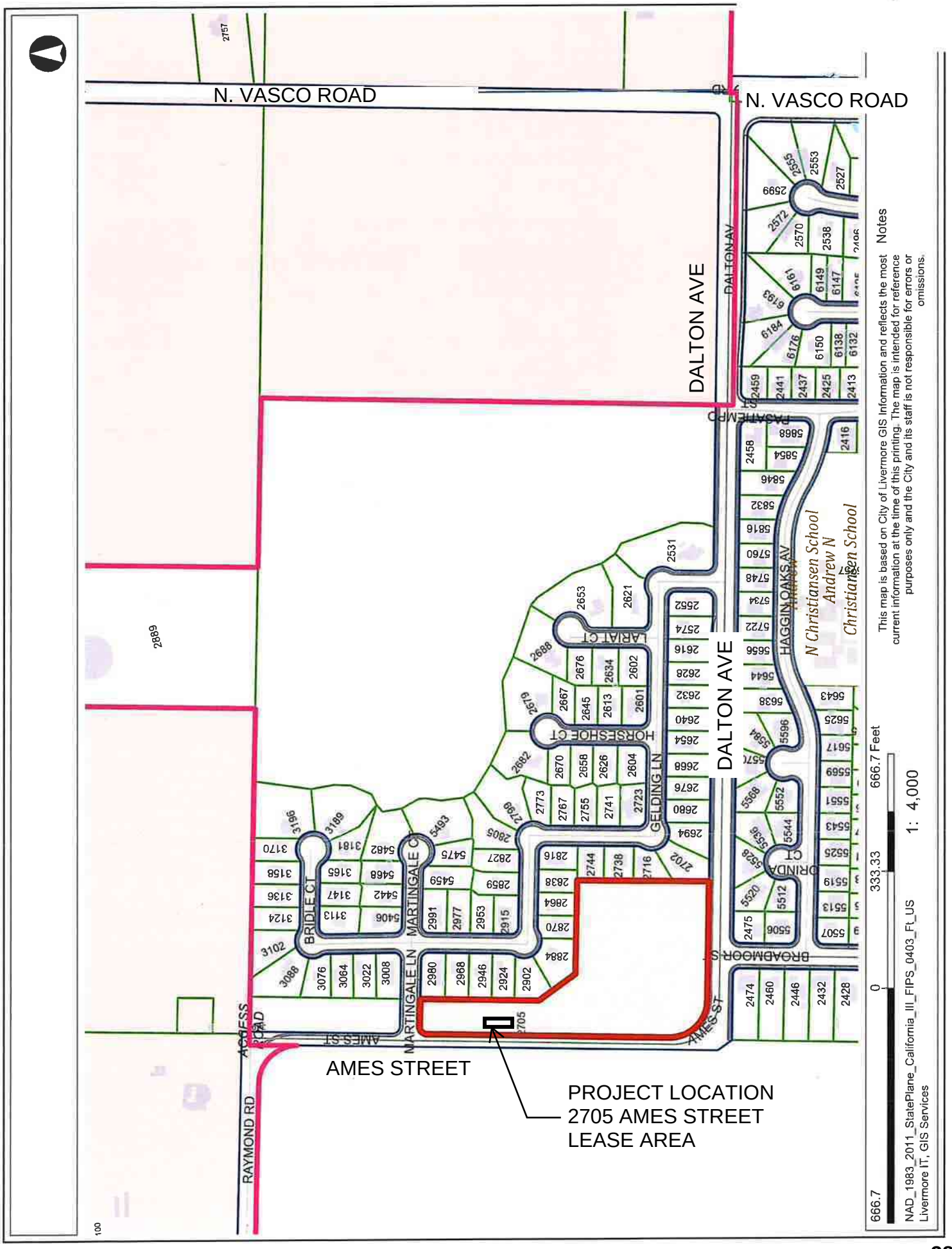
Prepared by: Mike Pato
Management Analyst II

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director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GELDING LN
BRIDLE CT
MARTINGALE LN
MARTINGALE CT
BROADMOOR ST
ORINDA CT
AMES ST
AMES ST
ACCESS ROAD
RAYMOND RD
AMES STREET
PROJECT LOCATION
2705 AMES STREET
LEASE AREA
Notes
This map is based on City of Livermore GIS Information and reflects the most current information at the time of this printing. The map is intended for reference purposes only and the City and its staff is not responsible for errors or omissions.
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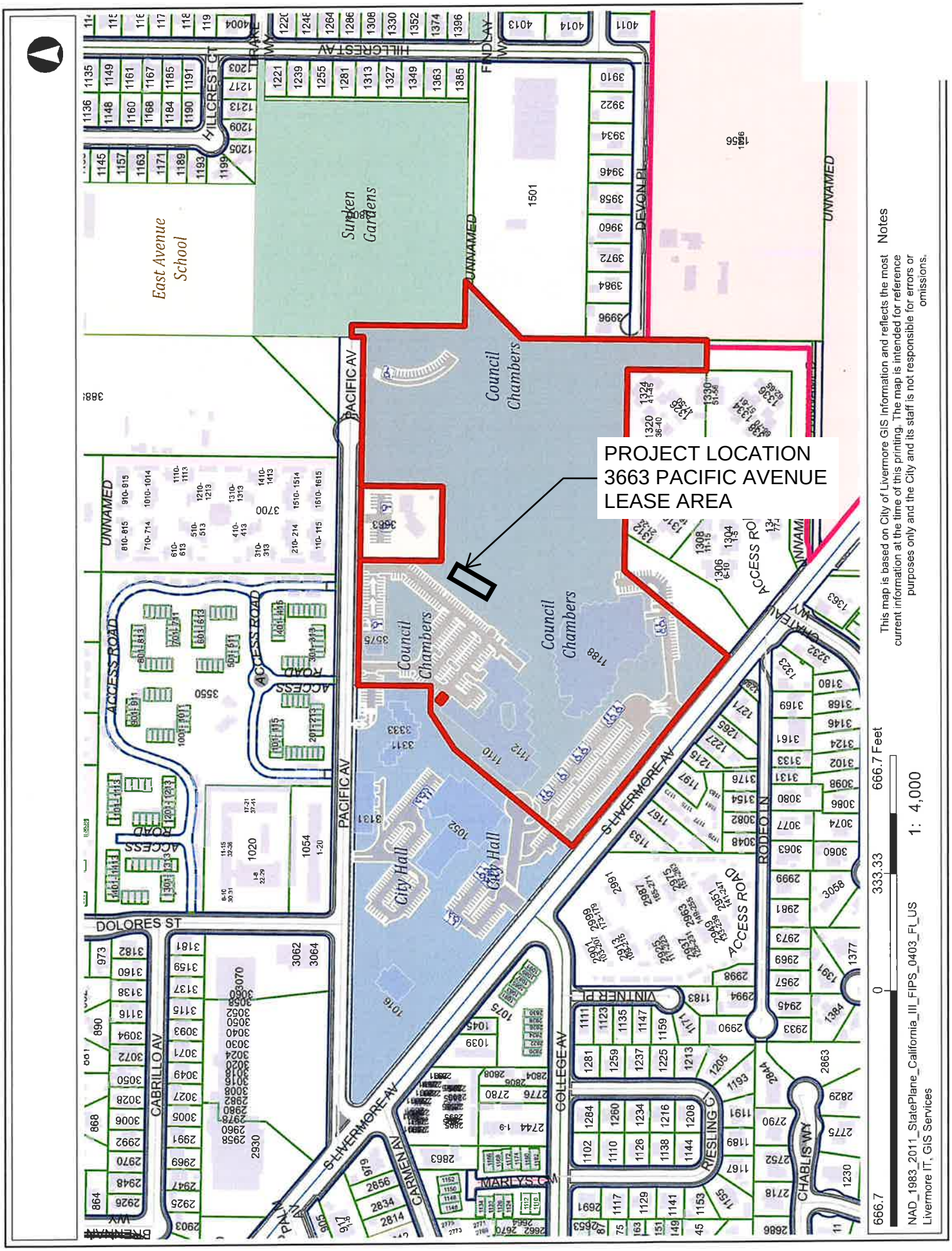
PROJECT LOCATION
3663 PACIFIC AVENUE
LEASE AREA
East Avenue School
Sunken Gardens
Council Chambers
City Hall
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COLLEGE AV
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DOLORES ST
CABRILLO AV
CARMEN AV
HILLCREST AV
HILLCREST CT
DEVON PL
UNNAMED
ACCESS ROAD
RIESLING CT
CHABLIS WY
VINTNER PL
MARLEYS CT
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Livermore IT, GIS Services

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF LEASE AGREEMENTS WITH NEW CINGULAR WIRELESS PCS, LLC FOR THE CONSTRUCTION AND MAINTENANCE OF TELECOMMUNICATIONS FACILITIES ON TWO CITY PROPERTIES LOCATED AT 2705 AMES STREET AND 3663 PACIFIC AVENUE

Due to an increased demand for cellular coverage throughout the City of Livermore ("City"), New Cingular Wireless PCS, LLC would like to install wireless telecommunications facilities on a portion of two City properties to provide cellular coverage to more customers. Installation of telecommunications facilities on City properties requires a lease between New Cingular Wireless PCS, LLC and the City.

The two leases will allow New Cingular Wireless PCS, LLC to construct and maintain telecommunications facilities on a portion of City property located on the east side of Ames Street between Martingale and Broadmoor Streets and on a portion of City property located at the northwest corner of the City's solar array behind the police and civic center library facilities. The City will receive land lease revenues under the leases, which have an initial term of five years with the option to extend for three additional five-year terms.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager, or her designee, to sign on behalf of the City of Livermore, Lease Agreements with New Cingular Wireless PCS, LLC, attached hereto as Exhibits A and B, for construction of telecommunications facilities on two City properties.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A - Lease Agreement - 2705 Ames Street
Exhibit B – Lease Agreement - 3663 Pacific Avenue

LEASE FOR INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILTY

THIS LEASE FOR INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITY ("Lease Agreement") is made as of this ____ day of _____, 2024 ("Effective Date"), by and among the City of Livermore ("City"), a municipal corporation, having its principal place of business at 1052 South Livermore Avenue, Livermore, CA 94550, and New Cingular Wireless PCS, LLC, a Delaware limited liability company ("Lessee").

Recitals

City is the owner of the property located at APN 99B-8118-62, on Ames Street, north of Dalton Avenue, in the City of Livermore, County of Alameda, State of California 94551, and more particularly described in the legal description attached as Attachment "A" ("Property").

On October 22, 2018, the City adopted Ordinance no. 2777 (Development Code Amendment 18-005) to regulate the permit processing, location, and design of wireless telecommunications facilities.

On December 13, 2010, the City adopted a policy for leasing City-owned property for wireless telecommunication facilities ("Policy") (Resolution no. 2010-201, Policy Proposal 10-003) that includes the Property.

On October 6, 2021, The Pacific Gas and Electric Company (PG&E) granted Lessee permission to install a wireless telecommunication facility for its telecommunications system within their existing easement area located on the Property.

The Lessee is a telecommunications operator that desires to rent a portion of the Property from the City to install a wireless telecommunication facility for its telecommunications system. The City desires to lease a portion of the Property to the Lessee for that purpose.

The Lessee has applied for and obtained land use entitlements for a wireless telecommunications facility on the Property: Conditional Use Permit (CUP13-008) and Zoning Clearance (ZC23-007) ("Entitlements").

Agreement

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Recitals. The aforementioned recitals are true and correct.

2. Leased Areas.

(a) Description. For and in consideration of the mutual terms, covenants and conditions contained herein, the following areas are leased by Lessee under this Lease Agreement.

(1) Leased Areas: The Leased Areas (as depicted in Attachment B) include areas within the Property consisting of 1,851 square feet for the Wireless Telecommunication

Facility, a 3,413 square feet utility lease area, and an additional 233 square feet transformer equipment lease area located 32'-8" north of the Wireless Telecommunication Facility for the utility pad mount transformer. These areas shall be collectively referred to in this Lease Agreement depicted in Attachment B as the "Leased Areas."

(b) Appurtenant Rights. The appurtenant rights granted by this Lease Agreement are as follows:

(1) For the duration of this Lease Agreement, including any extensions thereof, Lessee is hereby granted a non-exclusive access over, in, and across the Property's common areas to the Leased Areas for the limited purpose of installing, maintaining, servicing, replacing, and operating Lessee's Wireless Telecommunication Facility as defined in section 3 below.

The right of access is limited to Lessee, its employees, agents and designated representatives, and is expressly conditioned upon Lessee's compliance with all terms and conditions of this Lease Agreement. The right of access does not grant Lessee any right across, over or through any occupied areas on the Property.

3. Wireless Telecommunication Facility:

The Antennas, Tower and Equipment, and connections between them and to utilities, are collectively referred to as the "Wireless Telecommunication Facility" for this Lease Agreement as described below in detail and in Attachment B.

(a) Antennas and Tower. Upon approval of project entitlements and building permit, Lessee will have the right to install panel antennas ("Antennas") and related communications equipment and appurtenances ("Equipment"), on a PG&E utility tower ("Tower") and within the Leased Areas, identified in Attachment "B" for the operation of a telecommunications system.

(b) Equipment. Upon approval of a building permit, Lessee will have the right to install the equipment within the Leased Areas identified in Attachment "C": PROPOSED WIRELESS TELECOMMUNICATION FACILITY WITH EQUIPMENT

4. Term. The initial term of this Lease Agreement shall be for five (5) years ("Initial Term") commencing on the Effective Date. Lessee shall have the option to extend the term of this Lease Agreement for three (3) additional five (5) year terms after the Initial Term expires ("Extended Term"). The Extended Term shall be deemed automatically exercised by Lessee without the requirement of delivering a written notice to the City unless Lessee notifies the City in writing no later than ninety (90) calendar days before expiration of the Initial Term that Lessee elects not to exercise the option for the Extended Term. If Lessee is in material default beyond the applicable cure period under this Lease Agreement at the time of exercising its option to extend the Term of this Lease Agreement, the option notice shall be ineffective, and Lessee shall have no right to extend the Term beyond the Initial Term until and unless Lessee cures the applicable material default prior to the commencement of the Extended Term. The Base Rent and any Additional Ground Space Rent for the Extended Term shall increase as set forth in Paragraph 5(c) below. The Initial Term and the Extended Term are hereinafter collectively referred to as the "Term".

5. Rent and Deposits.

(a) One-Time Lease Execution Charge. Within 30 days of the Effective Date of this Lease Agreement, Lessee shall pay City the amount of Seven Thousand Five-Hundred and No/100 Dollars ($7,500.00) as a one-time Lease Execution Charge mailed to the City of Livermore, Attention: Finance Dept. Accounts Receivable, 1052 S. Livermore Avenue, Livermore, CA 94550.

(b) Base Rent. Commencing upon the Effective Date, Lessee shall pay City, as rent, the amount of Three Thousand One-Hundred and No/100 Dollars ($3,100.00) ("Base Rent") per month. The Lessee shall pay a pro-rata share of the Base Rent in the first month of the Lease Agreement based on the Effective Date. Lessee's first Base Rent payment to the City shall be made within ninety (90) days of the Effective Date. Thereafter, Lessee shall pay the Base Rent to the City in advance on the first day of each month during the Term of this Lease Agreement. If that date falls on a weekend or a legal holiday, the Base Rent is due on the next business day. The payments are to be made to the City and mailed to the City of Livermore, Attention: Finance Dept. Accounts Receivable, 1052 S. Livermore Avenue, Livermore, CA 94550.

(c) Rent Adjustment. On July 1st every year during the Initial Term and the Extended Term, the Base Rent shall be increased by a fixed rate of three and one half percent (3.5%) of the annual rent paid in the immediately preceding year.

(d) Additional Ground Space Rent. In the event that Lessee requests and the City approves the installation of additional equipment outside of the Leased Area as described above in Section 2(a)(1) and shown in Attachment B, additional ground space rent may be required as negotiated between City and Lessee ("Additional Ground Space Rent") in addition to the Base Rent, which Additional Ground Space Rent shall commence upon the first (1st) day of the month following the commencement of installation of the applicable equipment. The additional ground space rent in either case shall be distributed to the City pursuant to section 5(b) above.

(e) Deposits. To secure the performance of its obligations under this Lease Agreement, the Lessee is required to make the following deposits with the City within ninety (90) days of the Effective Date:

(1) General Performance Bond: The Lessee shall furnish to and maintain with the City, in a form acceptable to the City's Attorney, a non-revocable performance-and-payment bond in the amount of One Hundred Thousand Dollars ($100,000) to ensure the Lessee's faithful performance of all the terms and conditions in this Lease Agreement, including without limitation the monthly payment of the Base Rent and Additional Ground Space Rent, and the restoration of the Property to the extent required pursuant to the terms and conditions of this Lease Agreement.

(2) Certificate of Deposit: The Lessee shall furnish to and maintain with the City, in a form acceptable to the City's Attorney, a joint Certificate of Deposit in the amount of Ten Thousand Dollars ($10,000) to ensure the Lessee's faithful performance of all the terms and conditions in this Lease Agreement, and which is payable as described in this subsection. The Lessee, but not the City, may draw all the interest earned on such an account. The City, but not the Lessee, may draw the principal of such an account to cure any default that the Lessee failed to correct in accordance with the provisions in Section 28 of this Lease Agreement. If the City draws the principal, the Lessee must replenish the draw within thirty (30) days following Lessee's receipt of written notice from City for any such amount.

6. Utilities. The Lessee is responsible for obtaining utility connections for the Equipment and the Wireless Telecommunications Facility. The Lessee shall establish all utility accounts in its name and is responsible for all charges and fees associated with the account. The Lessee may install over, in, and across the Property such cables, wires, or pipes reasonably necessary to deliver utility services to the Leased Areas ("Service Lines"), in a manner that does not materially interfere with the City's use or operation of the Property. The Lessee must obtain the City's prior written approval, not to be unreasonably withheld, conditioned or delayed, for the design and location of the Service Lines before they are installed. If required by the City for a legitimate governmental purpose, the City may require the Lessee to redesign or relocate the Service Lines, or to connect to existing services, provided that such redesign or relocation shall not result in a material reduction in the quantity or quality of services which Lessee enjoyed prior to the redesign or relocation.

7. City's Rights. City reserves the right to use the Property for City's operations. It is understood that construction, reconstruction, maintenance facilities or improvements for City upon said Property shall at all times be paramount to any rights under this Lease Agreement, provided that City will not materially and adversely interfere with Lessee's use of the Leased Areas. Lessee's construction, reconstruction, maintenance, and use of the Lessee's Wireless Telecommunications Facility, and all work upon or in connection therewith, shall not materially and adversely interfere with the City's operations on the Property. The construction and reconstruction of the Wireless Telecommunication Facility, and all work in connection therewith, shall be done and made under the supervision of City.

8. Use of Leased Areas.

(a) The Lessee may use the Leased Areas for the installation, maintenance, repair, replacement, upgrade and operation of the Equipment for a Wireless Telecommunications Facility in compliance with this Agreement and the conditions of approval in the Governmental Approvals, which are incorporated into this Lease Agreement by reference as though set forth in full. Lessee will be allowed to make such alterations to the Leased Areas consistent with the Governmental Approvals or such amendments thereto, and will ensure that Lessees' Wireless Telecommunications Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Lessee desires to modify or upgrade the Equipment, in a manner that requires an additional portion of the Property outside of the footprint of the Leased Areas, then for such modification or upgrade Lessee shall request from the City a lease modification to address the additional square footage which Lessee requests to be added to the Leased Areas. If City is agreeable to provide the additional square footage to Lessee, it may condition its approval of a lease modification on a commercially reasonable increase in the Base Rent.

(b) Notwithstanding Subsection 8(a) above, following the initial installation of the Wireless Telecommunication Facility, Lessee shall have the right to add, upgrade or otherwise modify its Wireless Telecommunication Facility in any portion of the Leased Areas provided that Lessee must secure all necessary Governmental Approvals from the City prior to undertaking the addition, upgrade or other modification. Additionally, Lessee shall notify City of any proposed addition, upgrade or modification of its Wireless Telecommunication Facility; however, the City's consent to such addition, upgrade or modification shall not be required pursuant to this Lease Agreement as long as Lessee shall have secured all necessary Governmental Approvals.

(c) Changes in Wireless Telecommunications Facility. Subject to Section 8(b) above, Lessee shall have the right to perform routine maintenance and make routine

repairs/replacement of existing equipment within the Wireless Telecommunication Facility identified in Attachments B and C with same or substantially similar in kind equipment without City approval. If Lessee is in need to modify, alter, replace, upgrade or otherwise change the Wireless Telecommunication Facility identified in Attachments B and C and such modification, alteration, replacement, upgrade or change requires an increase in the size of the existing ground equipment and/or enclosure walls previously approved by the City, then Lessee shall not make said changes without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Lessee shall secure all applicable Governmental Approvals and permits for said changes, if any, are necessary and required by law. Such changes may be subject to Additional Ground Space Rent per Section 5(d) above. If City's consent is required under this Lease Agreement for any change in the Wireless Telecommunication Facility, Lessee, at its own cost and expense, shall explain the effect of the change and demonstrate to the reasonable satisfaction of City that the change will not interfere with or impair the use of the City Property for its intended use or interfere with City's then existing communication systems, including public safety, in conformance with Section 16 below.

9. Limited Right of Access and Utility Access. Access to the Leased Areas shall only be from Ames Street and Martingale Lane as shown on Attachment B. Concurrent with the Term of this Lease Agreement, the City allows the Lessee a ten (10') foot wide non-exclusive access license, which license shall not be revocable during the Term of this Lease Agreement, as further depicted on Attachment "B", over, in, and across the Property to the Leased Areas. The City may, in its discretion, relocate the Lessee's access path to the Leased Areas, provided that the access path shall provide contiguous pedestrian and vehicular access to and over the Property to the Lease Areas. The right of access is limited to the Lessee, its employees, agents, contractors and designated representatives, and is expressly conditioned upon compliance with all terms and conditions of this Lease Agreement. In addition to the provisions of this Paragraph 9, and for the avoidance of any doubt regarding utility access rights, City grants to Lessee and utility service supplier the right to receive utility services including, but not limited to electric facilities, appurtenances and associated equipment, and the right for the utility service supplier to excavate for, construct, reconstruct, replace (of initial or any other size), remove, maintain, inspect and use said utility facilities, together with the right for the utility service supplier to ingress and egress from said utility facilities across the Property as set forth in Exhibit B. City grants the right for the utility service supplier to trim or cut down any trees or brush within five (5) feet on each side of the centerline of said utility facilities. In addition, City shall not erect or construct any building or other structure, or drill or operate any well within five (5) feet on each side of the centerline of said utility facilities. Notwithstanding anything to the contrary contained in this Lease Agreement, City agrees to the following:

(a) City grants to Lessee the right to trim such trees and other foliage and to cut such limbs and roots on said Property as may be necessary for the protection of said facilities.

(b) City grants to Lessee the right to cut, fill or otherwise change the grade of said Property and to place such drainage and retaining structures thereon, as Lessee may elect for the protection of such facilities.

(c) City grants to the Lessee the right to receive commercial power service from the appropriate utility company serving the area, together with the right for such utility company to place its respective service facilities upon and within said Property.

Any access by any person(s) not cleared pursuant to the terms of this Lease Agreement is a material breach of the Agreement and, may be cause for termination of the Lease Agreement in the event that such material breach is not cured by Lessee following receipt of written notice from the City and the reasonable opportunity to cure the material breach in accordance with the default provisions set forth in Section 28 of this Lease Agreement.

10. Co-Location. The Lessee is encouraged to permit other wireless telecommunications providers to collocate on its Wireless Telecommunications Facility consistent with the Policy and Entitlements. In relation thereto, Lessee shall have the right to sublease or sublicense space on its Equipment to other third party co-locators provided that Lessee shall require each such co-locator (i) to obtain a separate ground space lease from the City and (ii) any required Governmental Approvals prior to allowing such co-locator to install any equipment on Lessee's Equipment. In such event, City shall be entitled to retain all revenue derived from its separate ground space lease with each co-locator and Lessee shall be entitled to retain all revenue derived from each sublease or sublicense of its Equipment and Tower with each co-locator. In Addition, City will require that the additional wireless telecommunication provider acquire permission from the Pacific Gas and Electric company who owns the exiting power transmission tower and easement rights beneath it.

11. Rules. Lessee shall comply with the following rules for the use of the Leased Areas, and such other changes or rules as may be imposed by City from time to time after reasonable written notice to Lessee thereof:

(a) Lessee shall comply with all statutes, laws, rules and regulations ("Laws") concerning Lessee's use of the Leased Areas, without limitation, the laws of the United States of America, the State of California, and/or the ordinances, regulations and requirements of the County of Alameda, the City of Livermore or other lawful authorities.

(b) Lessee shall not allow or authorize, the Leased Areas, or any part thereof, to be used in violation of the statutes, laws, rules and regulations of the United States of America, the State of California, and/or the ordinances, regulations and requirements of the County of Alameda, the City of Livermore or any other lawful authorities with jurisdiction over the use or the Leased Areas.

(c) Lessee shall install all required safety notices related to the operation of the Wireless Telecommunications Facility, including those required for radio frequency emission safety.

(d) Lessee shall not leave or store any trash, garbage, or refuse of any kind in, on, or about the Property or Leased Areas and shall cause any refuse, trash, paper or other waste deposited on the Property or Leased Areas by any of its employees, agents, or designated representatives to be picked up and disposed of in the appropriate manner so as to keep the Property and Leased Areas in a neat and clean condition

(e) Lessee shall not use, commit, or allow or permit to be used or committed, any waste upon the Facility.

(f) Lessee shall not use, commit or allow or permit to be used or committed any legal nuisance or any unauthorized use of the Property.

(g) Lessee and its agents and employees shall not hunt on the Property (or discharge weapons of any kind while on the Property.

(h) No alcoholic beverages shall be consumed on the Property.

(i) Notwithstanding the provisions of Section 9 of this Lease Agreement, Lessee shall use the access route as shown on Attachment B on the Property to the Leased Areas and shall not travel any other road on the Property or open fields except in cases of emergency or with the prior authorization of City Staff.

(j) Lessee shall observe a reasonable speed limit on the Property.

(k) Smoking, use of matches, or open fires shall not be permitted on the Property.

(l) The Lessee shall remove all graffiti and repair any vandalism to the Equipment and Leased Areas within three (3) working days of the Lessee's receipt of a written notice of its existence from the City, or agency maintaining the Property for the City, to the Lessee. Emergency access is exempt from this requirement.

12. Lessee's Responsibilities.

(a) Engineering. The Lessee is responsible for conducting its own engineering and analysis of the Wireless Telecommunications Facility and the Leased Areas to ensure that the wireless telecommunications facility is designed to meet its needs.

(b) Governmental Approvals. The Lessee shall comply with all applicable requirements, rules, regulations, including environmental and workplace safety requirements, related to installation, operation, repair, replacement, and maintenance of the Wireless Telecommunications Facility, including all requirements imposed or permits required by the City of Livermore, County of Alameda, the State of California and the United States of America. The Lessee expressly acknowledges that the City is not responsible for obtaining or maintaining any necessary governmental approvals on behalf of Lessee for the Wireless Telecommunications Facility. The Lessee will be required to obtain all necessary permit and inspection approvals through the entitlement and building permit process and pay any required permit fees. City agrees that Lessee's ability to use the Leased Areas is contingent upon the suitability of the Leased Areas and Property for Lessee's permitted use and Lessee's ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Lessee for its use of the Leased Areas, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"). City, as landowner, authorizes Lessee to prepare, execute and file all required applications to obtain Government Approvals for Lessee's permitted use under this Lease Agreement. In addition, Lessee shall have the right to initiate the ordering and/or scheduling of necessary utilities.

(c) Pre-construction Conditions. Lessee has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice. Lessee may also perform and obtain, at Lessee's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Lessee's use of the Leased Areas will be compatible with Lessee's engineering specifications, system, design, operations or Government Approvals. Lessee agrees that prior to construction of the Wireless

Telecommunications Facility, Lessee will give notice to City. Lessee will reimburse City for any required permit costs incurred by City in reviewing Lessee's work plan and for City' inspection of construction activities. Lessee shall comply with all of the terms of any building or encroachment permits issued by City. Once Lessee's Wireless Telecommunication Facility is installed, Lessee may make alterations to it without obtaining the prior written approval of City, subject to Sections 8(b) and 8(c).

(d) Physical Interference. The Lessee's installation, maintenance, and operation of the Wireless Telecommunications Facility, as well as its access to the Leased Areas, shall not interfere with the City's use or operation of the Property. Notwithstanding the foregoing, City hereby confirms that the location of the Leased Areas, including the Service Lines and access to the Leased Areas as depicted on Attachment "B" do not interfere with the City's use of operation of the Property as of the Effective Date. Said Service Lines may be relocated by the City in the future subject to Section 8 (d) above.

(e) Maintenance and Repairs. Lessee shall be required to provide City with prior written notice of not less than 72 hours prior to any maintenance being performed on the Wireless Telecommunications Facility. Lessee shall be obligated to pay City the actual hourly inspection fees incurred during all maintenance, if any such inspection is necessary. In the event of an emergency, Lessee shall immediately notify City of its intent to access the Facility prior to performing any maintenance or repairs.

13. Vegetation. Lessee further agrees that no City owned vegetation, if any, will be damaged and/or removed during installation or maintenance of the Wireless Telecommunications Facility without the City's prior written approval. The Lessee shall restore/replace any vegetation damaged and/or removed by Lessee during installation or maintenance of the Wireless Telecommunications Facility to the reasonable satisfaction of the City.

14. Possessory Interest Tax. Lessee shall pay all possessory interest taxes, assessments and other governmental charges of any kind applicable to this Lease Agreement and Lessee's occupancy of the Leased Areas assessed during the Term of this Lease Agreement. This obligation continues until such time as this Lease Agreement expires or is terminated and Lessee no longer has possession of the Leased Areas and has satisfied its obligation to remove the Wireless Telecommunications Facility and restore the Property to its original condition.

15. Hazardous Materials.

(a) In addition to the rules and restrictions set forth in this Lease Agreement, Lessee shall not cause or permit any Hazardous Materials to be permanently stored, used or disposed of, on or in the Leased Areas without first having obtained City's prior, written approval. If Hazardous Materials are stored, generated, used or disposed of on or in the Leased Areas without the City's approval, or if the Leased Areas become contaminated in any manner for which Lessee is responsible, Lessee shall indemnify and hold City harmless from any and all claims, damages, fines, judgments, penalties, clean-up costs, liabilities or losses (including without limitation, a decrease in value of the Leased Areas, Property, and adjacent real property or damages due to adverse impact on marketing of the Leased Areas), and any and all sums paid for settlement of claims, attorney's fees, consultant and experts' fees arising during or after the Term and arising as a result of such Hazardous Discharge or Contamination by Lessee or its employees, agents, or designated representatives. Any contamination of the City's Property caused by Lessee shall be completely removed, and the Property restored to its pre contamination condition at the sole expense of the Lessee. For purposes of this Lease Agreement, the following terms shall have the meanings set forth below:

(i) "Hazardous Materials" shall mean any toxic or hazardous wastes, pollutants, materials or substances, including, without limitation, asbestos, PCB's, petroleum products, radioactive substances or their by-products, other substances defined or listed as "hazardous substances", "hazardous materials", "hazardous wastes" or "toxic substances in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601, *et seq.*, ("CERCLA"); the Hazardous Materials Transportation Act, 49 USC Sections 5102, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. §§2601 *et seq.*; any "toxic pollutant" under the Clean Water Act, 33 U.S.C. §§1251 *et seq.*; any hazardous air pollutant under the Clean Air Act, 42 U.S.C. §§7401 *et seq.*; the California Hazardous Substance Account Act, California Health & Safety Code ("CH&SC") §25300 *et seq.*, the Hazardous Waste Control Law, CM&SC §§25100 *et seq.*; in or pursuant to or identified as causing cancer or reproductive toxicity in the California Safe Drinking Water & Toxic Enforcement Act of 1986, CM&SC §§25249.5 *et seq.*; and CM&SC §§ 25249.8, 25117, 25316; all as such laws may be amended; any hazardous or toxic substance, material, chemical, waste or pollutant now or hereafter regulated under any other applicable federal, state or local environmental laws, without limitation; and any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

(ii) "Hazardous Discharge" and "Contamination" shall mean the happening of any event involving an emission, spill, release or discharge ("Release") into or upon (a) the air, (b) soils or any improvements located thereon, (c) surface or ground water, (d) the sewer, septic system or waste treatment, storage or disposal system servicing the Leased Areas, of any Hazardous Material, or (e) any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

(iii) "Environmental Laws" shall mean all applicable federal, state and local laws, ordinances, regulations, orders, procedures, policies and directives of every kind and nature whatsoever pertaining to Hazardous Materials in, at, on, under or from the Leased Areas or any portion thereof, and any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

(b) City represents and warrants (i) to the best of the City's knowledge, the Property, as of the date of this Lease Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) to the best of the City's knowledge, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. City and Lessee agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(c) Lessee agrees to hold harmless and indemnify the City, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("Claims"), to the extent arising from Lessee's breach of its obligations or representations under this Section 15. City hereby agrees that Lessee shall have no duties, responsibilities and liabilities at for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with

hazardous substances prior to the Effective Date of this Lease Agreement or from such contamination caused by the acts or omissions of the City during the Term except to the extent that Lessee's operations on the Property directly exacerbate such contamination .

(d) The indemnification of the City by Lessee in this Section 15 specifically includes reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 15 will survive the expiration or termination of this Lease Agreement.

(e) In the event Lessee becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Lessee's sole determination, renders the condition of the Leased Areas or Property unsuitable for Lessee's use, or if Lessee believes that the leasing or continued leasing of the Leased Areas would expose Lessee to undue risks of liability to a government agency or third party, Lessee will have the right, in addition to any other rights it may have at law or in equity, to terminate this Lease Agreement upon written notice to City.

16. Frequency Compatibility and Interference. Lessee's operation of the Wireless Telecommunications Facility shall not interfere with any existing City, or City lessee's, communication systems for public safety or City operation purposes on the Property or nearby properties provided that such operation is installed and operating in compliance with applicable Laws. In addition, Lessee shall not interfere with any existing City commercial lessee's communication systems, provided that such operation is installed and operating in compliance with applicable Laws

Lessee shall provide for complete frequency compatibility with all other radio transmitting equipment currently existing on the property and any future equipment owned and installed by City for public safety or City operational purposes. In the event an interference problem arises which creates a bona fide emergency with the essential communications for public safety communication and data retrieval functions for the City, which interference problem cannot be eliminated by Lessee no more than twenty-four (24) hours after Lessee's receipt of notification to do so by City, then the Lessee must take the suspected portion of the Wireless Telecommunications Facility out of service until the problem is corrected to the affected city's satisfaction, at Lessee's sole expense.

If interference from Lessee's Wireless Telecommunications Facility is suspected in violation of this section, then the City will contract with a technical consultant who will provide determinations evaluating the interference, at Lessee's sole expense. If the technical consultant finds, after thorough conclusive diagnostics that Lessee's Wireless Telecommunications Facility is interfering with the City's equipment or antennas which have been installed and are operating in compliance with Laws, Lessee shall implement a solution in coordination with City. City shall have the right to terminate this Lease Agreement upon written notice in the event Lessee's Facility incurably interferes with the reception or transmission of City's communication system. Lessee shall also reimburse City for time and costs of City's staff expended to correct any interference.

17. Non-Interference by Subsequent Lessees. Any future lease of space on the Property which permits the installation of communications equipment shall be conditioned upon non-interference with Lessee's Wireless Telecommunication Facility, except for those temporary emergency communications systems installations by City or other public agency. The City agrees to coordinate efficient collocation of any new equipment and antennas and to promptly resolve

any interference issues that may arise due to the presence of multiple lessees. In recognition of Lessee's critical need for a reliable communication system telecommunication services, the City agrees to take all necessary steps to ensure that existing and future lessees will not cause interference with Lessee's Antenna or Equipment. In the event of any interference to Lessee's Antenna or Equipment, Lessee shall notify the City, and within 72 hours after receipt of notification, the City will notify the party causing said interference to the Lessee's Antenna or Equipment to cease or require the cessation of all operations within 48 hours which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected. If interference to Lessee's Equipment cannot be resolved, Lessee will have the option, in addition to Lessee's right to exercise any and all rights available to it under this Lease Agreement and under law and equity, including without limitation Lessee's right to bring an action to enjoin such interference, to relocate to a new location on City Property, if available and not currently occupied or needed by City, and to recover from the interfering party any costs associated with such relocation or, to terminate this Lease Agreement.

18. Repair. If the Lessee damages asphalt, pavement, sidewalks, driveways, landscaping, irrigation, utility facilities, structures, or other improvements on the Property or the Leased Areas, the Lessee shall replace, repair, or restore such improvements to as close to their original condition as is reasonably possible, reasonable wear and tear, and damage from the elements excepted. The restoration work must comply will all applicable ordinances and regulations. In the event the Lessee's damage necessitates an immediate repair by the City, or any agency operating or maintaining the Property for the City, to either protect the Property or the public's health, safety, or welfare, the City will give the Lessee written notice of the damage and Lessee shall repair the damage within 24 hours after receiving the written notice. If the Lessee cannot repair said damage, City shall give the Lessee the circumstances requiring immediate repair, and the work be completed for the repair, and the Lessee shall then reimburse the City, or the agency operating or maintaining the Property for the City, for the reasonable repair costs within thirty (30) days following receipt of a written invoice by Lessee from City, accompanied by reasonable substantiation of any such costs. The Lessee shall maintain all such restoration for a period of one (1) year following the date the City acknowledges satisfactory completion of the work.

19. Condemnation. If all or part of the Leased Areas are taken by condemnation such that the Leased Areas are no longer usable for the purposes stated in this Lease Agreement, this Lease shall terminate unless Lessee's Wireless Telecommunications Facility can be relocated to another location on City property acceptable to Lessee if such space is available and does not interfere with the public use of the Property. Lessee shall be entitled only to that portion of the proceeds of condemnation which is directly attributable to the value of Lessee's interest in this Lease Agreement

20. Assignment

(a) Prohibition Against Assignment and Encumbrance. Except for a Permitted Transfer (as defined below), this Lease Agreement and any rights or obligations of Lessee hereunder shall not be sold, assigned, transferred, leased, assigned, sublet, conveyed, hypothecated, nor shall there be any grant of licenses, franchises or concessions, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any person, either in whole or in part, or in any manner, without the prior written consent of the City. Lessee shall not allow any other person or entity to occupy or use all or any part of the Leased Areas, without first obtaining the City's written consent.

In order to obtain City' written consent for any such assignment other than a Permitted Transfer, the proposed assignee or transferee must demonstrate to the satisfaction of City that it possesses the legal, financial and technical qualifications necessary to perform all the terms, conditions and obligations under this Lease Agreement for the remaining term thereof, and such reasonable additional obligations required by the assignee or transferee by the City for the specific and limited purpose of assuring the performance of all the terms, conditions and obligations of this Lease Agreement.

Notwithstanding the foregoing, Lessee shall have the right upon notice to the City, but without the necessity of the City' consent (each a "Permitted Transfer") to assign, sell or other transfer this Lease Agreement (i) to any Affiliate of Lessee; or (ii) in connection with the sale, merger, or exchange of substantially all of Lessee's assets in the FCC market area where the Property is located. An "*Affiliate" means with respect any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.* All successors to this Lease Agreement will be subject to all terms and conditions of this Lease Agreement.

(b) Involuntary Assignment. No interest of Lessee in this Lease Agreement shall be assignable by operation of law, including, without limitation, the transfer of this Lease Agreement by testacy or intestacy. Each of the following acts shall be considered an involuntary assignment:

(1) If Lessee is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which Lessee is the bankrupt; or, if Lessee is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors;

(2) If a writ of attachment or execution is levied on this Lease Agreement;

(3) If, in any proceeding or action to which Lessee is a party, a receiver is appointed with authority to take possession of the Leased Areas.

An involuntary assignment shall constitute a default by Lessee and City shall have the right to elect to terminate this Lease Agreement, in which case this Lease Agreement shall not be treated as an asset of Lessee.

If a writ of attachment or execution is levied on this Lease Agreement, Lessee shall have sixty (60) days in which to cause the attachment or execution to be removed. If any involuntary proceeding in bankruptcy is brought against Lessee, or if a receiver is appointed, Lessee shall have one hundred twenty (120) days in which to have the involuntary proceeding dismissed or the receiver removed.

21. Indemnity. Lessee agrees to defend, indemnify, and hold City and its respective elected officials, officers, directors, employees, agents, and designated volunteers (collectively "Indemnities") harmless from and against any and all loss, liability, damage, including reasonable attorney's fees and court costs including expert witness fees, arising out of or related to, and to the extent caused by, the acts or omissions of Lessee, its employees, contractors, agents, representatives or designated volunteers in connection with this Lease Agreement, Lessee's use

of the Leased Areas including the installation and operation of the Wireless Telecommunications Facility, and the activities and/or operations permitted by this Lease Agreement. Such obligations to defend, hold harmless and indemnify any of the Indemnities shall not apply to the extent that such Liabilities are caused by the negligence or acts or omissions of the Indemnities or any of them.

22. Encumbrance. The Lessee shall pay, or cause to be paid, all costs and expenses for work done by it, or caused to be done by it, on the Leased Areas of a character which will or may result in any lien on the Property. Likewise, the Lessee shall keep the Property free and clear of any mechanic's lien or other lien on account of work done for it or at its request. Should any claims of lien be filed and/or recorded against the Property, or any action affecting the title thereto commenced, Lessee shall give the City written notice promptly following Lessee's knowledge thereof.

23. Insurance. Lessee shall carry and maintain insurance or self-insurance during the Term of this Lease Agreement in the amounts and under the terms set forth in Attachment "D" against claims that may arise from or in connection with this Lease Agreement and the installation, maintenance, and operation of the Equipment, Antenna, and Wireless Telecommunications Facility on the Leased Areas. Upon at least sixty (60) days prior written notice to Lessee, Lessee shall comply with changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager in respect to comparable locations of the City but not more than once every five (5) years.

24. Entry by City and other lessees. Except in the event of a bona fide emergency for which no prior notice to Lessee shall be required, Lessee shall permit City, its officials, officers, employees, impacted lessee's, agents and designated volunteers to enter into and upon Lessee's equipment shelter upon reasonable prior written notice to Lessee (which in no event shall be less than two (2) business days prior written notice) for the purpose of inspecting the Leased Areas, enforcing the rules and regulations under this Lease Agreement, and the posting of such legal notices as City may deem necessary or convenient.

25. Notices. Wherever in this Lease Agreement it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, all notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

City:
Brandon Cardwell
Innovation & Economic Development Director/Property Manager
City of Livermore
1052 South Livermore Avenue
Livermore, California 94550

Lessee:
New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: CCL01380; Cell Site Name: PGE1 (Arabian Road) (**CA**)
Fixed Asset #: 14702818
1025 Lenox Park Blvd. NE, 3rd Floor
Atlanta, Georgia 30319

With copy to: New Cingular Wireless PCS, LLC
Attn: Legal Dept – Network Operations
Re: Cell site #: CCL01380; Cell Site Name: PGE 1 (Arabian Road) (CA)
Fixed Asset #: 14702818
208 S. Akard Street
Dallas, TX 75202-4206

Any party may change such address or contact person by written notice by registered mail to the other.

26. Holding Over. Any holding over after the expiration of the Term of this Lease Agreement, with the consent of the City, shall be construed to be a tenancy from month to month at a monthly rate equal to 110% of the previous month's rent, and shall otherwise be on the same terms and conditions herein specified so far as applicable. Following termination or expiration of this Lease Agreement, the Lessee shall be responsible for the payment of Rent to the City until such time as the Equipment is removed from the Leased Areas and the Leased Areas are restored as provided for in Section 29.

27. Modification. This Lease Agreement may only be modified or amended by written agreement signed by all parties hereto, except that the number of extensions and the length of the initial term and extensions shall not be modified.

28. Default and Termination. During the Term of this Lease Agreement, City shall have the right to terminate Lease Agreement following an uncured default by Lessee of any material term of this Lease Agreement in accordance with this Section. Lessee shall have thirty (30) days following receipt of written notice from City to cure any such default, provided that if the nature of the default is such that additional time beyond thirty (30) days is needed to complete the cure, then no default shall be deemed to have occurred as long as Lessee has commenced to cure such default in good faith within such thirty (30) day period, and thereafter diligently prosecutes the cure to completion. The following will be deemed a default by City and a breach of this Lease Agreement: (i) City's failure to provide access to the Leased Premises as required by this Lease Agreement within Seventy-two (72) hours after written notice of such failure; (ii) City's failure to cure an interference problem as required by this Lease Agreement within seventy-two (72) hours after written notice of such failure; or (iii) City's failure to perform any term, condition or breach of any warranty or covenant under this Lease Agreement within thirty (30) days after written notice from Lessee specifying the failure. No such failure, however, will be deemed to exist if City has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. If City remains in default beyond any applicable cure period, Lessee will have the right to: (i) terminate this Lease Agreement, and (ii) any and all other rights available to it under law and equity and this Lease Agreement. Lessee, shall have the right to terminate this Lease upon 90 days written notice to City, if the approval of any agency, board, court, or other governmental authority necessary for the construction and/or operation of the Wireless Telecommunications Facility is revoked or withdrawn so long as the Lessee pays City a termination fee equal to nine (9) months' Base Rent, at the then-current rate.

29. Removal, Restoration and Surrender of Leased Areas.

(a) All portions of the Wireless Telecommunications Facility brought onto the Property by Lessee will be and remain Lessee's personal property and, at Lessee's option, may be removed by Lessee at any time during the Term subject to the termination section. City covenants and agree that no part of the Wireless Telecommunications Facility constructed, erected or placed on

the Leased Areas by Lessee will become, or be considered a part of, the Property, it being the specific intention of City that all improvements of every kind and nature constructed, erected or placed by Lessee on and/or within the Leased Areas will be and remain the property of Lessee. Within one hundred twenty (120) days of the termination of this Lease Agreement, Lessee shall surrender the Leased Areas to the City, remove all of Lessee's improvements and Lessee will, to the extent reasonable, restore the Leased Areas to its pre-construction condition on the Effective Date, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control excepted. Lessee's restoration shall include the removal and or remediation of any hazardous materials generated by the Lessee's personal property as described and defined in Section 15. Lessee shall perform all restoration made necessary by the improvements or alterations or by the removal the Wireless Telecommunications Facility, connections, and other components of the Wireless Telecommunications Facility within the time periods stated in this Section. Lessee shall be liable to City for costs for storing, removing, and disposing of any improvements, alterations, Equipment, or Antenna that are not removed within the 120-day period.

(b) City may agree in writing to allow the Lessee to satisfy its obligation to remove the Wireless Telecommunications Facility, connections, and other components of the Wireless Telecommunications Facility by abandoning them in place. The City's written approval for the abandonment, if exercised, will be contingent upon Lessee satisfying such other terms and conditions as the City may impose, which at a minimum must include:

(1) The Wireless Telecommunications Facility and its connections are abandoned in the manner prescribed by the Community Development Director; and,

(2) Lessee submits to City an instrument in writing, approved by City Attorney, transferring ownership of the Facility and connections, and other components of the Wireless Telecommunications Facility in their AS IS and WHERE IS condition without representation or warranty of any kind or nature whereupon Lessee shall have no further responsibility for the maintenance, repair or removal related thereto.

Lessee waives all claims against City for any damage to Lessee resulting from City' retention or disposition of any such improvements, alterations, Equipment, Antenna, connections, or portion of the Wireless Telecommunications Facility.

(c) City waives any and all lien rights it may have, statutory or otherwise, concerning any portion of the Wireless Telecommunications Facility, all of which shall be deemed personal property for purposes of this Lease Agreement, regardless of whether any portion is deemed real or personal property under applicable law.

30. Warranties. City represents, warrants and agrees that: (i) City solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license and (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Lessee's permitted use and enjoyment of the Leased Areas under this Lease Agreement.

31. Casualty. City will provide notice to Lessee of any casualty or other harm affecting the Leased Areas within forty-eight (48) hours of the casualty or other harm. If any part of the Wireless Telecommunications Facility or Leased Areas are damaged by casualty or other harm as to render the Leased Areas unsuitable, in Lessee's sole determination, then Lessee may terminate this Lease Agreement by providing written notice to City, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Lessee will be entitled to collect

all insurance proceeds payable to Lessee on account thereof and to be reimbursed for any prepaid rent on a pro rata basis. City agrees to permit Lessee to place temporary transmission and reception facilities that can be easily moved to accommodate construction activities (e.g., cell on wheels or COW) on the Areas, but only until such time as Lessee is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Lease Agreement, such temporary facilities will be governed by all of the terms and conditions of this Lease Agreement, including Base Rent. If City or Lessee undertakes to rebuild or restore the Leased Areas as applicable, they agree to permit Lessee to place temporary transmission and reception facilities on City property in the vicinity subject to the Lessee obtaining any necessary governmental approvals. If City determines not to rebuild or restore the Leased Areas or Wireless Telecommunications Facility, City will notify Lessee of such determination within thirty (30) days after the casualty or other harm. City agrees that the Base Rent shall be abated until the Leased Areas are rebuilt or restored, unless Lessee places temporary transmission and reception facilities on the Property.

32. General Provisions.

(a) Time of the Essence. Time is of the essence of each provision of this Lease Agreement.

(b) Relationship of the Parties. Nothing contained in this Lease Agreement shall be deemed or construed by the parties or by a third party to create the relationship of principal and agent, and/or of partnership, and/or of joint venture, and/or of any association between the parties.

(c) Entire Agreement. This instrument, including any attachments hereto, constitutes the entire agreement of the parties relating to the subject matter of this Lease Agreement and correctly sets forth the rights, duties and obligations of each party to the other.

(d) Partial Invalidity. If any provision or portion of this Lease Agreement shall be deemed invalid by a court of competent jurisdiction, it is agreed that such invalidity shall affect only such provision or portion thereof, and the remainder of this contract shall remain in force and effect.

(e) California Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the State of California.

(f) Review of Lease Agreement. Each party to this Lease Agreement declares that prior to the execution of this Lease Agreement, each party had the opportunity to seek the independent advice of counsel and that they apprised themselves of sufficient relevant information in order that they might intelligently exercise their own judgment in deciding whether to execute this Lease Agreement. Each party agrees that they have completely read and understood the Lease Agreement, know the contents thereof, and have signed the Lease of their own free will and free of any duress. No single party has drafted this Lease Agreement and it shall not be interpreted against any party as the drafting party.

(g) Performance Excused. The Parties shall be excused from performance, as hereunder agreed to, if such performance is rendered impossible, impractical, or unreasonably difficult by, but not limited to, any strike, lockout, labor disturbance of any kind, civil commotion, war, acts of terrorism, shortage of any supply or labor, shortage of water, weather, Act of government authority, enactment or change in laws or regulations, breakdown of facilities or any cause outside of the Parties' control.

(h) [Intentionally omitted]

(i) Captions. The captions of this Lease Agreement shall have no effect on its interpretation.

(j) Singular and Plural. When required by the context of this Lease Agreement, the singular shall include the plural.

(k) Joint and Several Obligations. "Party" or "Parties," unless otherwise stated, shall mean the City and Lessee.

(l) Waiver. A term or condition of this Lease Agreement may be waived at any time by the party entitled to the benefit thereof, but no such waiver shall affect the right of the waiving party to require observance, performance or satisfaction either of that term or condition as it applies on a subsequent occasion or of any other term or condition. Lessee shall not be excused from complying with any of the terms and conditions of this Lease Agreement by any failure of the City upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

(m) Attachments. All attachments referred to in and attached to this Lease Agreement are incorporated by reference as though set forth in full.

(n) Attorney's Fees and Costs. If any party commences an action against another party to enforce this Lease Agreement, the prevailing party is entitled to reasonable attorney's fees, costs of suit, investigation costs and discovery costs, including costs of appeal.

IN WITNESS WHEREOF, the parties to this Lease Agreement have executed this Lease Agreement as of the dates set forth below.

Dated: 8/8, 2024

New Cingular Wireless PCS, LLC, a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: Michael Guibord
Director
Construction & Engineering

Dated: _____, 2024

City of Livermore

By: _____
Marianna Marysheva
City Manager

Approved as to Form:

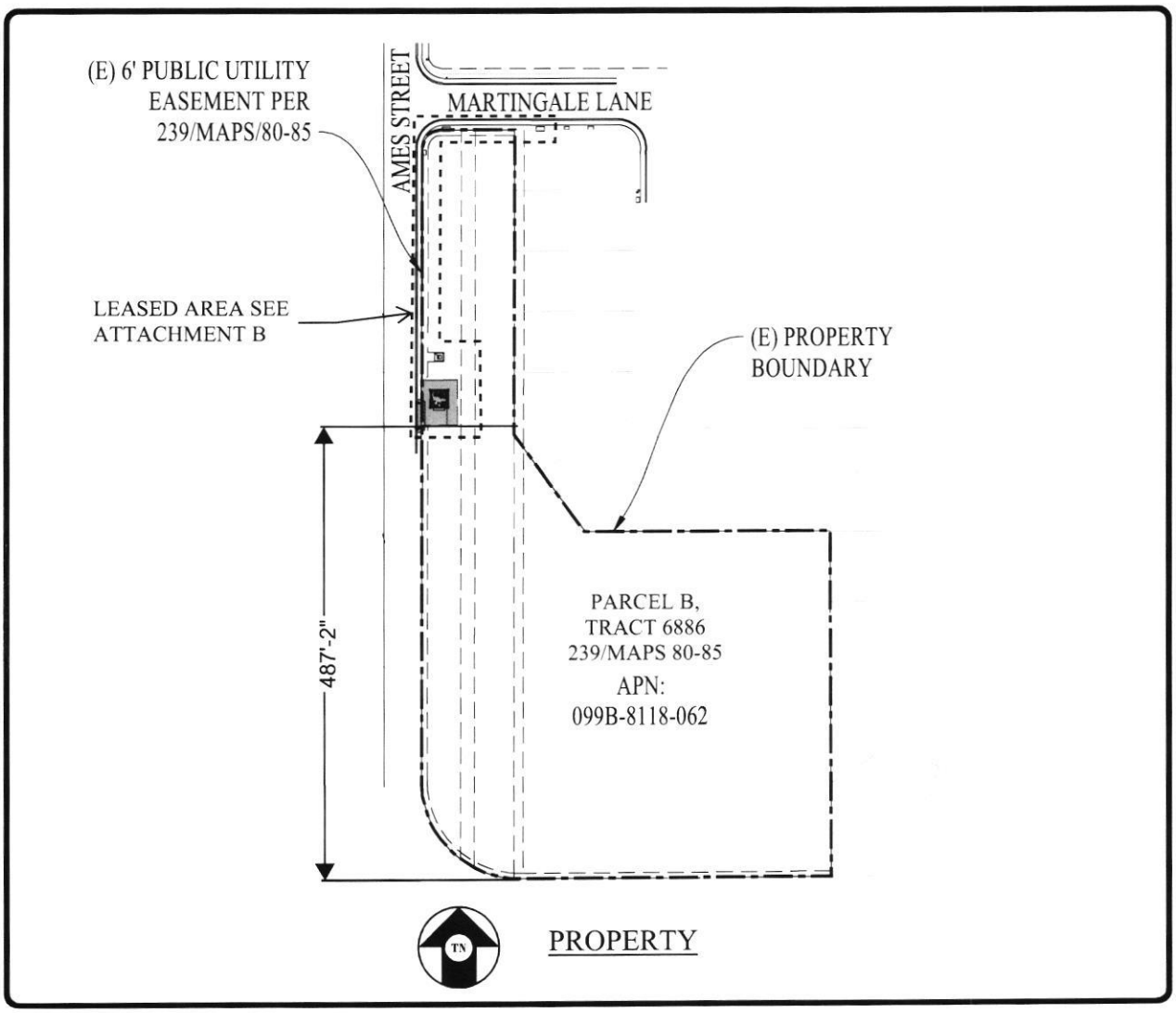
By: _____
Deputy/Assistant/City/Attorney

Attachments:

A. Property
B. Leased Areas
C. Proposed Wireless Telecommunication Facility with Equipment
D. Insurance Requirements

ATTACHMENT A - PROPERTY

Real property in the City of Livermore, County of Alameda, State of California, described as follows:
PARCEL B OF TRACT 6886, FILED MAY 29, 1998 IN BOOK 239 OF MAPS AT PAGE 80, OFFICIAL RECORDS OF ALAMEDA COUNTY.
APN: 099B-8118-062



STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

NAME:
ARABIAN ROAD

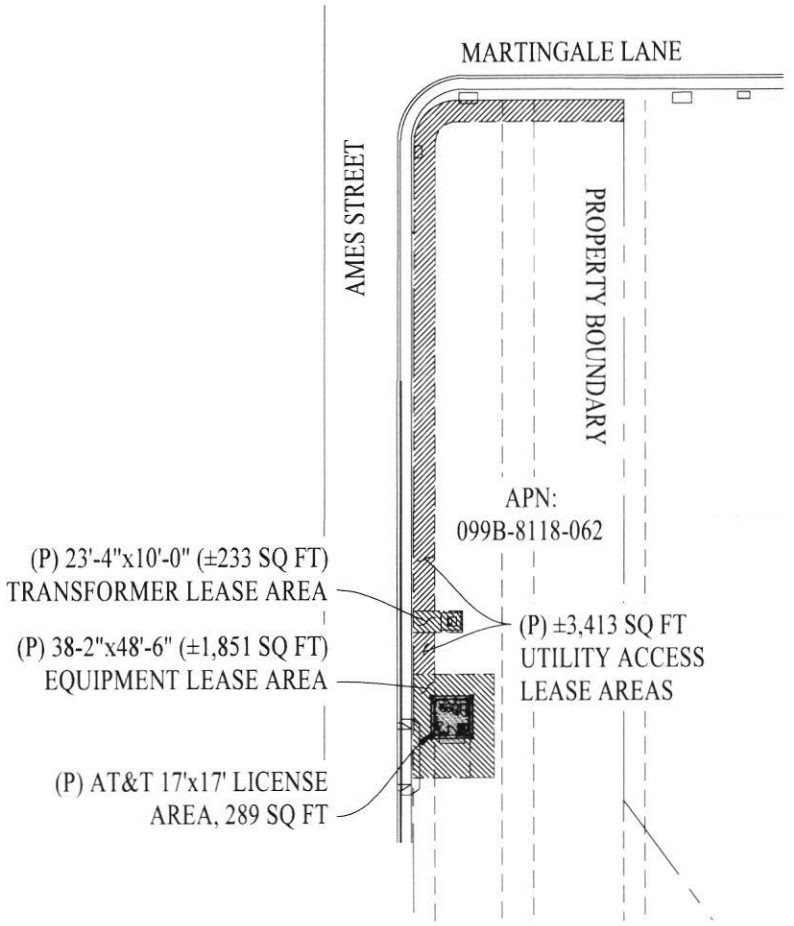
NUMBER:
CCL01380

ADDRESS:
AMES STREET
LIVERMORE, CA 94551
ALAMEDA COUNTY

ATTACHMENT A

SCALE: N.T.S.

Sheet 2 of 2



LEASE AREA PLAN

STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

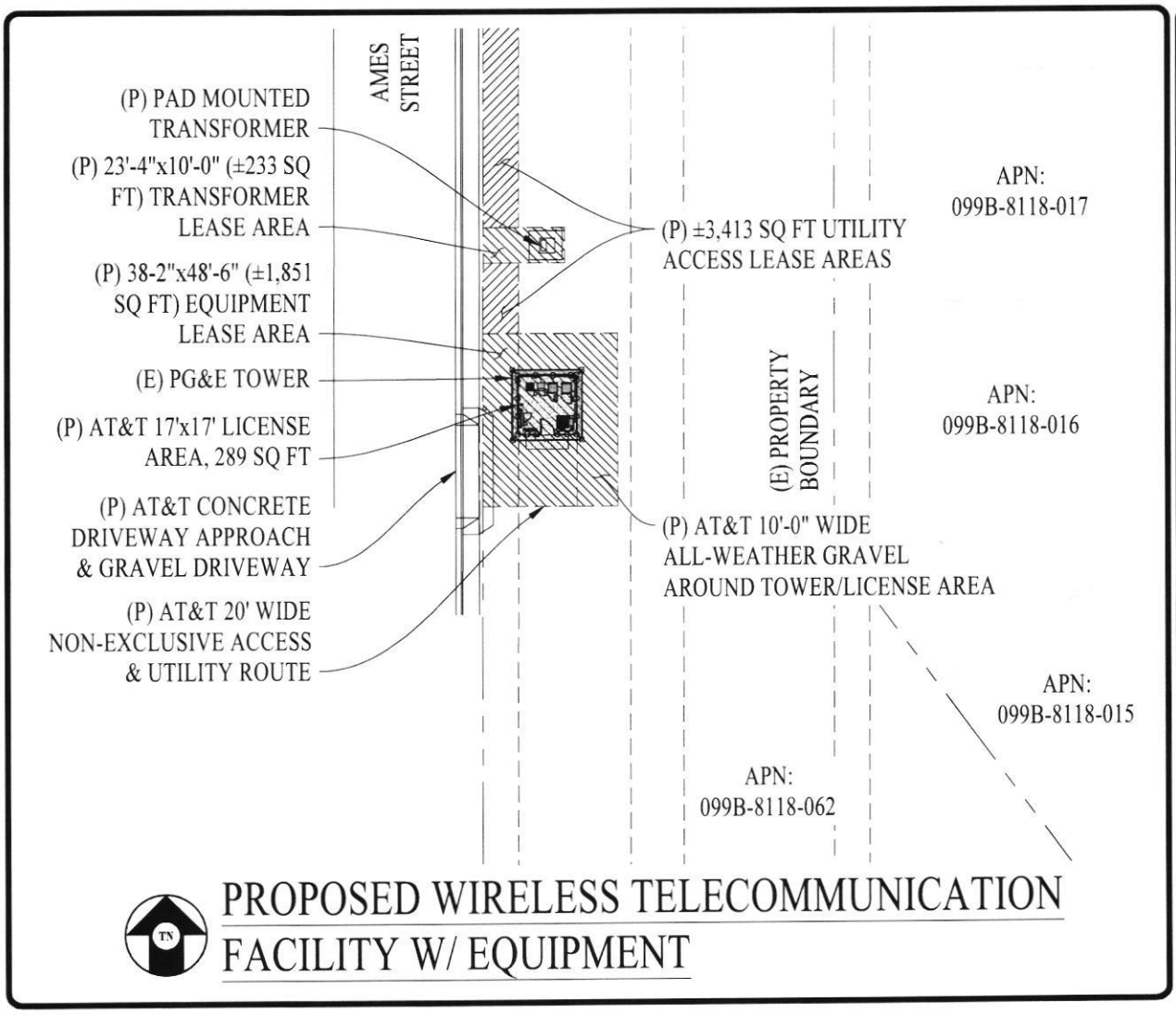
NAME:
ARABIAN ROAD

NUMBER:
CCL01380

ADDRESS:
AMES STREET
LIVERMORE, CA 94551
ALAMEDA COUNTY

ATTACHMENT B

SCALE: N.T.S.



STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

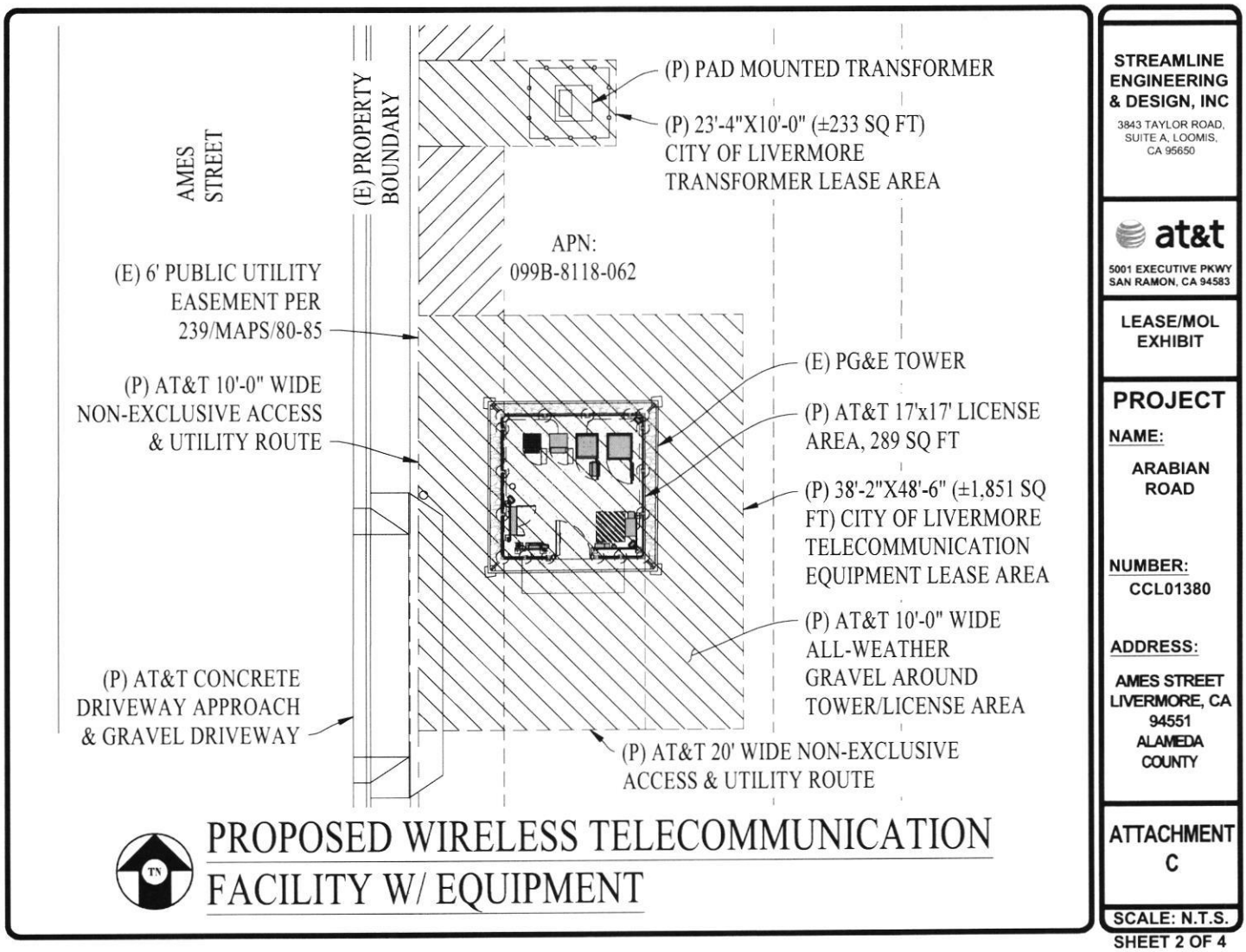
NAME: ARABIAN ROAD

NUMBER: CCL01380

ADDRESS: AMES STREET LIVERMORE, CA 94551 ALAMEDA COUNTY

ATTACHMENT C

SCALE: N.T.S.
SHEET 1 OF 4



STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

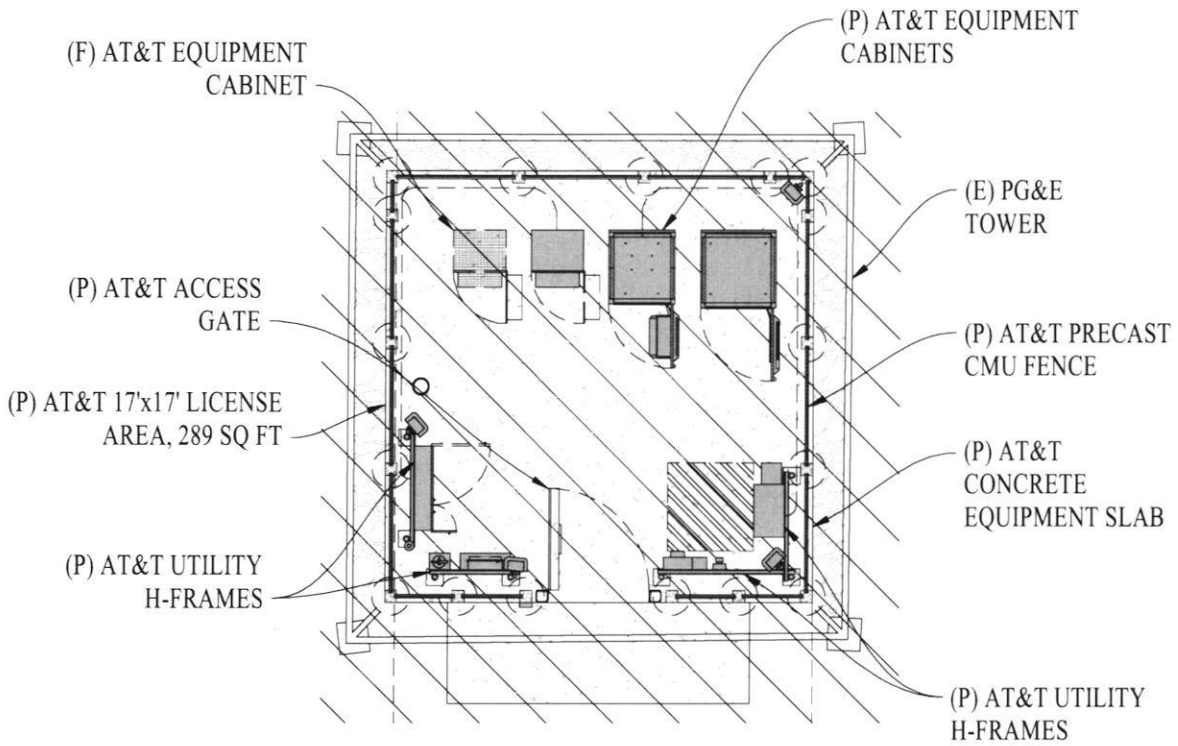
NAME:
ARABIAN ROAD

NUMBER:
CCL01380

ADDRESS:
AMES STREET
LIVERMORE, CA 94551
ALAMEDA COUNTY

ATTACHMENT C

SCALE: N.T.S.
SHEET 2 OF 4



PROPOSED WIRELESS TELECOMMUNICATION FACILITY W/ EQUIPMENT

STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

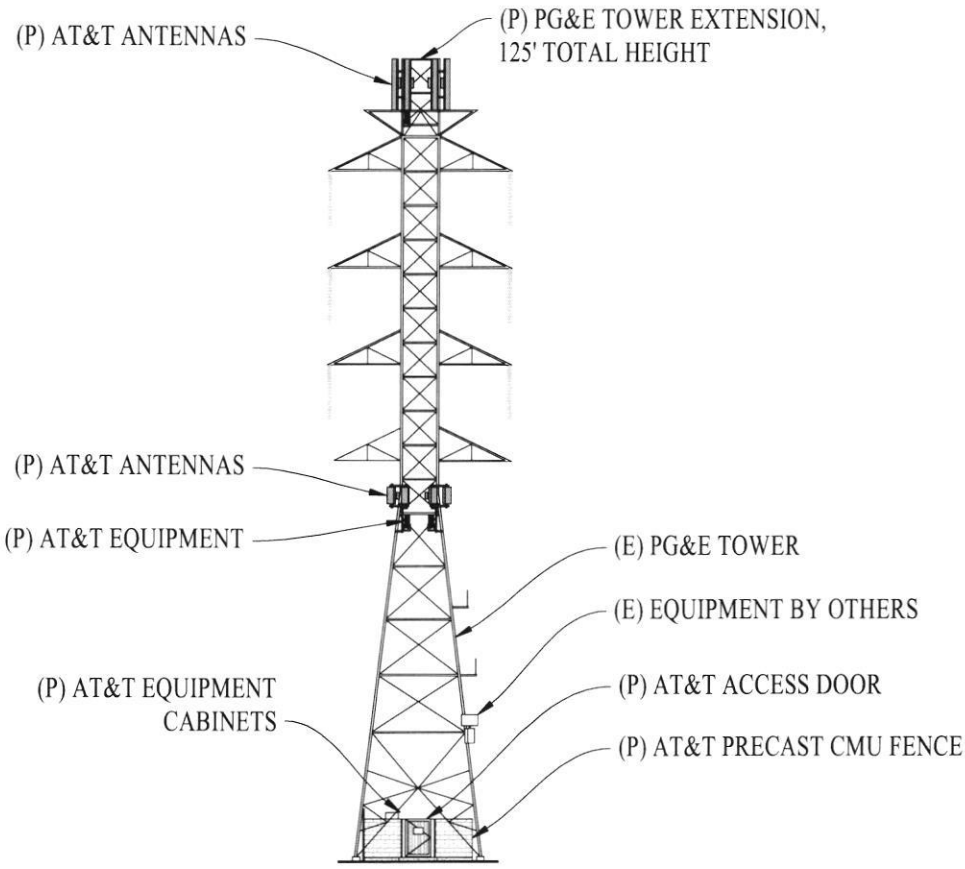
NAME:
ARABIAN ROAD

NUMBER:
CCL01380

ADDRESS:
AMES STREET
LIVERMORE, CA 94551
ALAMEDA COUNTY

ATTACHMENT C

SCALE: N.T.S.
SHEET 3 OF 4



PROPOSED WIRELESS TELECOMMUNICATION FACILITY W/ EQUIPMENT

STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT
NAME:
ARABIAN ROAD

NUMBER:
CCL01380

ADDRESS:
AMES STREET
LIVERMORE, CA 94551
ALAMEDA COUNTY

ATTACHMENT C

SCALE: N.T.S.
SHEET 4 OF 4

EXHIBIT D

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Lessee shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$10,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance.
4. Property Insurance:
   Total value of all tenant improvements, betterments, and contents. The City of Livermore shall be named as loss payee as its interest may appear. The insurer shall waive all rights against City.

Deductibles and Self-Insured Retention

Lessee or Lessee's parent company shall be responsible for payment of all deductibles, self-insured retentions or related costs. In the event that the City has tendered a claim to Lessee, or its insurer, or its insurer has denied coverage to the City, Lessee (in a local office) will make available to the City within fifteen (15) days of the City's written request to Lessee, a copy of actual, authentic and applicable insurance policies for review (but not for copying, faxing or otherwise reproducing any part of any policy or other insurance correspondence), subject to the City first executing Lessee's standard non-disclosure agreement. The policy review is limited to no more than three days during a consecutive six-month period and must be conducted during Lessee's normal business hours while the City's representative is accompanied by a Lessee Risk Management professional. Upon completion of review no copies will be made and all policies will be returned to Lessee's Corporate Risk Management Department. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Lessee; for automobiles owned, leased, hired or borrowed by the Lessee. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or designated volunteers.
2. For any claims related to this project, Lessee's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or designated volunteers.
4. The Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Lessee shall provide at least thirty (30) days' prior written notice by mail to the City of Livermore for cancellation of any required coverage that is not replaced.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

The City shall not be liable for any consequential loss sustained by Lessee. City shall not be liable for any loss of Lessee's personal property. Notwithstanding the forgoing, Lessee may, in its sole discretion, self insure any of the required insurance under the same terms as required by this Lease Agreement. In the event Lessee elects to self-insure its obligation under this Lease Agreement to include City as an additional insured, the following conditions apply:

1. City shall promptly and no later than thirty (30) days after notice thereof provide Lessee with written notice of any claim, demand, lawsuit, or the like

for which it seeks coverage pursuant to this Section and provide Lessee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like;

2. City shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Lessee; and
3. City shall fully cooperate with Lessee the defense of the claim, demand, lawsuit, or the like.

Verification of Coverage

Lessee shall furnish certificates of insurance and endorsement(s) or self-insurance letters effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements or self-insurance letters are to be received and approved by the City of Livermore before work commences.

TENANT ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Contra Costa

On August 8, 2024 before me, M. Murphree, Notary Public
(insert name and title of the officer)

personally appeared Michael Guibord,
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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)**

M. MURPHREE
Notary Public - California
Contra Costa County
Commission # 2374262
My Comm. Expires Sep 7, 2025

LEASE FOR INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILTY

THIS LEASE FOR INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITY ("Lease Agreement") is made as of this ____ day of _____, 2024 ("Effective Date"), by and among the City of Livermore ("City"), a municipal corporation, having its principal place of business at 1052 South Livermore Avenue, Livermore, CA 94550, and New Cingular Wireless PCS, LLC, a Delaware limited liability company ("Lessee").

Recitals

City is the owner of the property located at 3663 Pacific Avenue, in the City of Livermore, County of Alameda, State of California 94550, and more particularly described in the legal description attached as Attachment "A" ("Property").

On October 22, 2018, the City adopted Ordinance no. 2777 (Development Code Amendment 18-005) to regulate the permit processing, location, and design of wireless telecommunications facilities.

On December 13, 2010, the City adopted a policy for leasing City-owned property for wireless telecommunication facilities ("Policy") (Resolution no. 2010-201, Policy Proposal 10-003) that includes the Property.

The Lessee desires to lease a portion of the Property from the City to install ground equipment communications facility for its wireless telecommunications facility to be co-located on an existing Verizon Wireless communication tower. The City desires to lease a portion of the Property to the Lessee for that purpose.

Lessee has executed a Master Lease agreement with Verizon Wireless on September 5, 2022 as amended by the parties pursuant to that certain First Amendment to Master Lease Agreement dated December 13, 2006, by that certain Second Amendment to Master Lease Agreement dated September 18, 2009, by that certain Third Amendment to Master Lease Agreement dated March 1, 2010, and as further amended by that certain Fourth Amendment to Master Lease Agreement dated July 8, 2020 (collectively the "Agreement") to allow the installation of new communications equipment on to the existing Verizon Wireless communication tower. Lessee in agreeing to co-locate on the Verizon tower is subject to the terms of the lease agreement between the City and Verizon for their tower and ground equipment.

Agreement

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Recitals. The aforementioned recitals are true and correct.

2. Leased Areas.

(a) Description. For and in consideration of the mutual terms, covenants and conditions contained herein, the following areas are leased by Lessee under this Lease Agreement.

(1) Leased Areas: The Leased Areas (as depicted in Attachment B) include areas within the Property, Attachment A consisting of an approximate fifteen foot (15') by twenty foot (20') area containing approximately 300 square feet for Lessee's diesel generator and ground equipment, utility connection lines from ground equipment to proposed Lessee antennas to be installed on an existing Verizon Wireless communication tower, a 2,101 square feet utility access lease area from Pacific Avenue and an approximately 1,042 long, 20 foot wide access route to Lessee's Wireless Telecommunications Facility from South Livermore Avenue as depicted on the Property, Attachment A. These areas shall be collectively referred to in this Lease Agreement depicted in Attachments A & B as the "Leased Areas."

(b) Appurtenant Rights. The appurtenant rights granted by this Lease Agreement are as follows:

(1) For the duration of this Lease Agreement, including any extensions thereof, Lessee is hereby granted a non-exclusive access over, in, and across the Property's common areas to the Leased Areas for the limited purpose of installing, maintaining, servicing, replacing, and operating Lessee's Wireless Telecommunication Facility as defined in section 3 below.

The right of access is limited to Lessee, its employees, agents and designated representatives, and is expressly conditioned upon Lessee's compliance with all terms and conditions of this Lease Agreement. The right of access does not grant Lessee any right across, over or through any occupied areas on the Property.

3. Wireless Telecommunication Facility:

The Antennas, Tower and Equipment, and connections between them and to utilities, are collectively referred to as the "Wireless Telecommunication Facility with Ground Equipment" for this Lease Agreement as described below in detail and in Attachment C.

(a) Antennas and Tower. Upon approval of project entitlements and building permit, Lessee will have the right to install panel antennas ("Antennas") and related communications equipment and appurtenances ("Equipment"), on a Verizon Wireless communication tower ("Tower") and within the Leased Areas, identified in Attachment "B" for the operation of a telecommunications system.

(b) Equipment. Upon approval of a building permit, Lessee will have the right to install the equipment within the Leased Areas identified in Attachment "C": PROPOSED WIRELESS TELECOMMUNICATION FACILITY WITH EQUIPMENT.

4. Term. The initial term of this Lease Agreement shall be for five (5) years ("Initial Term") commencing on the Effective Date. Lessee shall have the option to extend the term of this Lease Agreement for three (3) additional five (5) year terms after the Initial Term expires ("Extended Term"). The Extended Term shall be deemed automatically exercised by Lessee without the requirement of delivering a written notice to the City unless Lessee notifies the City in writing no later than ninety (90) calendar days before expiration of the Initial Term that Lessee elects not to exercise the option for the Extended Term. If Lessee is in material default beyond the applicable cure period under this Lease Agreement at the time of exercising its option to extend the Term of this Lease Agreement, the option notice shall be ineffective, and Lessee shall have no right to

extend the Term beyond the Initial Term until and unless Lessee cures the applicable material default prior to the commencement of the Extended Term. The Base Rent and any Additional Ground Space Rent for the Extended Term shall increase as set forth in Paragraph 5(c) below. The Initial Term and the Extended Term are hereinafter collectively referred to as the "Term".

5. Rent and Deposits.

(a) One-Time Lease Execution Charge. Within 30 days of the Effective Date of this Lease Agreement, Lessee shall pay City the amount of Six Thousand Five-Hundred and No/100 Dollars ($6,500.00) as a one-time Lease Execution Charge mailed to the City of Livermore, Attention: Finance Dept. Accounts Receivable, 1052 S. Livermore Avenue, Livermore, CA 94550.

(b) Base Rent. Commencing upon the Effective Date, Lessee shall pay City, as rent, the amount of Two Thousand and No/100 Dollars ($2,000.00) ("Base Rent") per month. The Lessee shall pay a pro-rata share of the Base Rent in the first month of the Lease Agreement based on the Effective Date. Lessee's first Base Rent payment to the City shall be made within ninety (90) days of the Effective Date. Thereafter, Lessee shall pay the Base Rent to the City in advance on the first day of each month during the Term of this Lease Agreement. If that date falls on a weekend or a legal holiday, the Base Rent is due on the next business day. The payments are to be made to the City and mailed to the City of Livermore, Attention: Finance Dept. Accounts Receivable, 1052 S. Livermore Avenue, Livermore, CA 94550.

(c) Rent Adjustment. On July 1st every year during the Initial Term and the Extended Term, the Base Rent shall be increased by a fixed rate of three- and one-half percent (3.5%) of the annual rent paid in the immediately preceding year.

(d) Additional Ground Space Rent. In the event that Lessee requests and the City approves the installation of additional equipment outside of the Leased Area as described above in Section 2(a)(1) and shown in Attachment B, additional ground space rent may be required as negotiated between City and Lessee ("Additional Ground Space Rent") in addition to the Base Rent, which Additional Ground Space Rent shall commence upon the first (1st) day of the month following the commencement of installation of the applicable equipment. The additional ground space rent in either case shall be distributed to the City pursuant to section 5(b) above.

(e) Deposits. To secure the performance of its obligations under this Lease Agreement, the Lessee is required to make the following deposits with the City within ninety (90) days of the Effective Date:

(1) General Performance Bond: The Lessee shall furnish to and maintain with the City, in a form acceptable to the City's Attorney, a non-revocable performance-and-payment bond in the amount of One Hundred Thousand Dollars ($100,000) to ensure the Lessee's faithful performance of all the terms and conditions in this Lease Agreement, including without limitation the monthly payment of the Base Rent and Additional Ground Space Rent, and the restoration of the Property to the extent required pursuant to the terms and conditions of this Lease Agreement.

(2) Certificate of Deposit: The Lessee shall furnish to and maintain with the City, in a form acceptable to the City's Attorney, a joint Certificate of Deposit in the amount of Ten Thousand Dollars ($10,000) to ensure the Lessee's faithful performance of all the terms and conditions in this Lease Agreement, and which is payable as described in this

subsection. The Lessee, but not the City, may draw all the interest earned on such an account. The City, but not the Lessee, may draw the principal of such an account to cure any default that the Lessee failed to correct in accordance with the provisions in Section 28 of this Lease Agreement. If the City draws the principal, the Lessee must replenish the draw within thirty (30) days following Lessee's receipt of written notice from City for any such amount.

6. Utilities. The Lessee is responsible for obtaining utility connections for the Equipment and the Wireless Telecommunications Facility. The Lessee shall establish all utility accounts in its name and is responsible for all charges and fees associated with the account. The Lessee may install over, in, and across the Property such cables, wires, or pipes reasonably necessary to deliver utility services to the Leased Areas ("Service Lines"), in a manner that does not materially interfere with the City's use or operation of the Property. The Lessee must obtain the City's prior written approval, not to be unreasonably withheld, conditioned or delayed, for the design and location of the Service Lines before they are installed. If required by the City for a legitimate governmental purpose, the City may require the Lessee to redesign or relocate the Service Lines, or to connect to existing services, provided that such redesign or relocation shall not result in a material reduction in the quantity or quality of services which Lessee enjoyed prior to the redesign or relocation.

7. City's Rights. City reserves the right to use the Property for City's operations. It is understood that construction, reconstruction, maintenance facilities or improvements for City upon said Property shall at all times be paramount to any rights under this Lease Agreement, provided that City will not materially and adversely interfere with Lessee's use of the Leased Areas. Lessee's construction, reconstruction, maintenance, and use of the Lessee's Wireless Telecommunications Facility, and all work upon or in connection therewith, shall not materially and adversely interfere with the City's operations on the Property. The construction and reconstruction of the Wireless Telecommunication Facility, and all work in connection therewith, shall be done and made under the supervision of City.

8. Use of Leased Areas.

(a) The Lessee may use the Leased Areas for the installation, maintenance, repair, replacement, upgrade and operation of the Equipment for a Wireless Telecommunications Facility in compliance with this Agreement and the conditions of approval in the Governmental Approvals, which are incorporated into this Lease Agreement by reference as though set forth in full. Lessee will be allowed to make such alterations to the Leased Areas consistent with the Governmental Approvals or such amendments thereto and will ensure that Lessees' Wireless Telecommunications Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Lessee desires to modify or upgrade the Equipment, in a manner that requires an additional portion of the Property outside of the footprint of the Leased Areas, then for such modification or upgrade Lessee shall request from the City a lease modification to address the additional square footage which Lessee requests to be added to the Leased Areas. If City is agreeable to provide the additional square footage to Lessee, it may condition its approval of a lease modification on a commercially reasonable increase in the Base Rent.

(b) Notwithstanding Subsection 8(a) above, following the initial installation of the Wireless Telecommunication Facility, Lessee shall have the right to add, upgrade or otherwise modify its Wireless Telecommunication Facility in any portion of the Leased Areas provided that Lessee must secure all necessary Governmental Approvals from the City prior to undertaking the addition, upgrade or other modification. Additionally, Lessee shall notify City of any proposed addition,

upgrade or modification of its Wireless Telecommunication Facility; however, the City's consent to such addition, upgrade or modification shall not be required pursuant to this Lease Agreement as long as Lessee shall have secured all necessary Governmental Approvals.

(c) Changes in Wireless Telecommunications Facility. Subject to Section 8(b) above, Lessee shall have the right to perform routine maintenance and make routine repairs/replacement of existing equipment within the Wireless Telecommunication Facility identified in Attachments B and C with same or substantially similar in kind equipment without City approval. If Lessee is in need to modify, alter, replace, upgrade or otherwise change the Wireless Telecommunication Facility identified in Attachments B and C and such modification, alteration, replacement, upgrade or change requires an increase in the size of the existing ground equipment and/or enclosure walls previously approved by the City, then Lessee shall not make said changes without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. Lessee shall secure all applicable Governmental Approvals and permits for said changes, if any, are necessary and required by law. Such changes may be subject to Additional Ground Space Rent per Section 5(d) above. If City's consent is required under this Lease Agreement for any change in the Wireless Telecommunication Facility, Lessee, at its own cost and expense, shall explain the effect of the change and demonstrate to the reasonable satisfaction of City that the change will not interfere with or impair the use of the City Property for its intended use or interfere with City's then existing communication systems, including public safety, in conformance with Section 16 below.

9. Limited Right of Access and Utility Access. Access to the Leased Areas shall only be from South Livermore Avenue and Pacific Avenue as shown on Attachments A and B. Concurrent with the Term of this Lease Agreement, the City allows the Lessee a twenty (20') foot wide non-exclusive access license and a six (6') foot wide non-exclusive utility license, which licenses shall not be revocable during the Term of this Lease Agreement, as further depicted on Attachment "A", over, in, and across the Property to the Leased Areas. The City may, in its discretion, relocate the Lessee's access path to the Leased Areas, provided that the access path shall provide contiguous pedestrian and vehicular access to and over the Property to the Lease Areas. The right of access is limited to the Lessee, its employees, agents, contractors and designated representatives, and is expressly conditioned upon compliance with all terms and conditions of this Lease Agreement. In addition to the provisions of this Paragraph 9, and for the avoidance of any doubt regarding utility access rights, City grants to Lessee and utility service supplier the right to receive utility services including, but not limited to electric facilities, appurtenances and associated equipment, and the right for the utility service supplier to excavate for, construct, reconstruct, replace (of initial or any other size), remove, maintain, inspect and use said utility facilities, together with the right for the utility service supplier to ingress and egress from said utility facilities across the Property as set forth in Attachment B. City grants the right for the utility service supplier to trim or cut down any trees or brush within five (5) feet on each side of the centerline of said utility facilities. In addition, City shall not erect or construct any building or other structure, or drill or operate any well within five (5) feet on each side of the centerline of said utility facilities. Notwithstanding anything to the contrary contained in this Lease Agreement, City agrees to the following:

(a) City grants to Lessee the right to trim such trees and other foliage and to cut such limbs and roots on said Property as may be necessary for the protection of said facilities.

(b) City grants to Lessee the right to cut, fill or otherwise change the grade of said Property and to place such drainage and retaining structures thereon, as Lessee may elect for the protection of such facilities.

(c) City grants to the Lessee the right to receive commercial power service from the appropriate utility company serving the area, together with the right for such utility company to place its respective service facilities upon and within said Property.

Any access by any person(s) not cleared pursuant to the terms of this Lease Agreement is a material breach of the Agreement and, may be cause for termination of the Lease Agreement in the event that such material breach is not cured by Lessee following receipt of written notice from the City and the reasonable opportunity to cure the material breach in accordance with the default provisions set forth in Section 28 of this Lease Agreement.

10. Co-Location. The Lessee is encouraged to permit other wireless telecommunications providers to collocate on its Wireless Telecommunications Facility consistent with the Policy and Entitlements. In relation thereto, Lessee shall have the right to sublease or sublicense space on its Equipment to other third-party co-locators provided that Lessee shall require each such co-locator (i) to obtain a separate ground space lease from the City and (ii) any required Governmental Approvals prior to allowing such co-locator to install any equipment on Lessee's Equipment. In such event, City shall be entitled to retain all revenue derived from its separate ground space lease with each co-locator and Lessee shall be entitled to retain all revenue derived from each sublease or sublicense of its Equipment and Tower with each co-locator. In Addition, City will require that the additional wireless telecommunication provider acquire permission from the Pacific Gas and Electric company who owns the exiting power transmission tower and easement rights beneath it.

11. Rules. Lessee shall comply with the following rules for the use of the Leased Areas, and such other changes or rules as may be imposed by City from time to time after reasonable written notice to Lessee thereof:

(a) Lessee shall comply with all statutes, laws, rules and regulations ("Laws") concerning Lessee's use of the Leased Areas, without limitation, the laws of the United States of America, the State of California, and/or the ordinances, regulations and requirements of the County of Alameda, the City of Livermore or other lawful authorities.

(b) Lessee shall not allow or authorize, the Leased Areas, or any part thereof, to be used in violation of the statutes, laws, rules and regulations of the United States of America, the State of California, and/or the ordinances, regulations and requirements of the County of Alameda, the City of Livermore or any other lawful authorities with jurisdiction over the use or the Leased Areas.

(c) Lessee shall install all required safety notices related to the operation of the Wireless Telecommunications Facility, including those required for radio frequency emission safety.

(d) Lessee shall not leave or store any trash, garbage, or refuse of any kind in, on, or about the Property or Leased Areas and shall cause any refuse, trash, paper or other waste deposited on the Property or Leased Areas by any of its employees, agents, or designated representatives to be picked up and disposed of in the appropriate manner so as to keep the Property and Leased Areas in a neat and clean condition

(e) Lessee shall not use, commit, or allow or permit to be used or committed, any waste upon the Facility.

(f) Lessee shall not use, commit or allow or permit to be used or committed any legal nuisance or any unauthorized use of the Property.

(g) Lessee and its agents and employees shall not hunt on the Property (or discharge weapons of any kind while on the Property.

(h) No alcoholic beverages shall be consumed on the Property.

(i) Notwithstanding the provisions of Section 9 of this Lease Agreement, Lessee shall use the access route as shown on Attachment B on the Property to the Leased Areas and shall not travel any other road on the Property or open fields except in cases of emergency or with the prior authorization of City Staff.

(j) Lessee shall observe a reasonable speed limit on the Property.

(k) Smoking, use of matches, or open fires shall not be permitted on the Property.

(l) The Lessee shall remove all graffiti and repair any vandalism to the Equipment and Leased Areas within three (3) working days of the Lessee's receipt of a written notice of its existence from the City, or agency maintaining the Property for the City, to the Lessee. Emergency access is exempt from this requirement.

12. Lessee's Responsibilities.

(a) Engineering. The Lessee is responsible for conducting its own engineering and analysis of the Wireless Telecommunications Facility and the Leased Areas to ensure that the wireless telecommunications facility is designed to meet its needs.

(b) Governmental Approvals. The Lessee shall comply with all applicable requirements, rules, regulations, including environmental and workplace safety requirements, related to installation, operation, repair, replacement, and maintenance of the Wireless Telecommunications Facility, including all requirements imposed or permits required by the City of Livermore, County of Alameda, the State of California and the United States of America. The Lessee expressly acknowledges that the City is not responsible for obtaining or maintaining any necessary governmental approvals on behalf of Lessee for the Wireless Telecommunications Facility. The Lessee will be required to obtain all necessary permit and inspection approvals through the entitlement and building permit process and pay any required permit fees. City agrees that Lessee's ability to use the Leased Areas is contingent upon the suitability of the Leased Areas and Property for Lessee's permitted use and Lessee's ability to obtain and maintain all governmental licenses, permits, approvals or other relief required of or deemed necessary or appropriate by Lessee for its use of the Leased Areas, including without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "Government Approvals"). City, as landowner, authorizes Lessee to prepare, execute and file all required applications to obtain Government Approvals for Lessee's permitted use under this Lease Agreement. In addition, Lessee shall have the right to initiate the ordering and/or scheduling of necessary utilities.

(c) Pre-construction Conditions. Lessee has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of its choice. Lessee may also perform and obtain, at

Lessee's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if Lessee's use of the Leased Areas will be compatible with Lessee's engineering specifications, system, design, operations or Government Approvals. Lessee agrees that prior to construction of the Wireless Telecommunications Facility, Lessee will give notice to City. Lessee will reimburse City for any required permit costs incurred by City in reviewing Lessee's work plan and for City' inspection of construction activities. Lessee shall comply with all of the terms of any building or encroachment permits issued by City. Once Lessee's Wireless Telecommunication Facility is installed, Lessee may make alterations to it without obtaining the prior written approval of City, subject to Sections 8(b) and 8(c).

(d) Physical Interference. The Lessee's installation, maintenance, and operation of the Wireless Telecommunications Facility, as well as its access to the Leased Areas, shall not interfere with the City's use or operation of the Property. Notwithstanding the foregoing, City hereby confirms that the location of the Leased Areas, including the Service Lines and access to the Leased Areas as depicted on Attachment "B" do not interfere with the City's use of operation of the Property as of the Effective Date. Said Service Lines may be relocated by the City in the future subject to Section 8 (d) above.

(e) Maintenance and Repairs. Lessee shall be required to provide City with prior written notice of not less than 72 hours prior to any maintenance being performed on the Wireless Telecommunications Facility. Lessee shall be obligated to pay City the actual hourly inspection fees incurred during all maintenance, if any such inspection is necessary. In the event of an emergency, Lessee shall immediately notify City of its intent to access the Facility prior to performing any maintenance or repairs.

13. Vegetation. Lessee further agrees that no City owned vegetation, if any, will be damaged and/or removed during installation or maintenance of the Wireless Telecommunications Facility without the City's prior written approval. The Lessee shall restore/replace any vegetation damaged and/or removed by Lessee during installation or maintenance of the Wireless Telecommunications Facility to the reasonable satisfaction of the City.

14. Possessory Interest Tax. Lessee shall pay all possessory interest taxes, assessments and other governmental charges of any kind applicable to this Lease Agreement and Lessee's occupancy of the Leased Areas assessed during the Term of this Lease Agreement. This obligation continues until such time as this Lease Agreement expires or is terminated and Lessee no longer has possession of the Leased Areas and has satisfied its obligation to remove the Wireless Telecommunications Facility and restore the Property to its original condition.

15. Hazardous Materials.

(a) In addition to the rules and restrictions set forth in this Lease Agreement, Lessee shall not cause or permit any Hazardous Materials to be permanently stored, used or disposed of, on or in the Leased Areas without first having obtained City's prior, written approval. If Hazardous Materials are stored, generated, used or disposed of on or in the Leased Areas without the City's approval, or if the Leased Areas become contaminated in any manner for which Lessee is responsible, Lessee shall indemnify and hold City harmless from any and all claims, damages, fines, judgments, penalties, clean-up costs, liabilities or losses (including without limitation, a decrease in value of the Leased Areas, Property, and adjacent real property or damages due to adverse impact on marketing of the Leased Areas), and any and all sums paid for settlement of claims, attorney's fees, consultant and experts' fees arising during or after the Term and arising as a result of such Hazardous Discharge or Contamination by Lessee or its employees, agents,

or designated representatives. Any contamination of the City's Property caused by Lessee shall be completely removed, and the Property restored to its pre contamination condition at the sole expense of the Lessee. For purposes of this Lease Agreement, the following terms shall have the meanings set forth below:

(i) "Hazardous Materials" shall mean any toxic or hazardous wastes, pollutants, materials or substances, including, without limitation, asbestos, PCB's, petroleum products, radioactive substances or their by-products, other substances defined or listed as "hazardous substances", "hazardous materials", "hazardous wastes" or "toxic substances in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601, *et seq.*, ("CERCLA"); the Hazardous Materials Transportation Act, 49 USC Sections 5102, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. §§2601 *et seq.*; any "toxic pollutant" under the Clean Water Act, 33 U.S.C. §§1251 *et seq.*; any hazardous air pollutant under the Clean Air Act, 42 U.S.C. §§7401 *et seq.*; the California Hazardous Substance Account Act, California Health & Safety Code ("CH&SC") §25300 *et seq.*, the Hazardous Waste Control Law, CM&SC §§25100 *et seq.*; in or pursuant to or identified as causing cancer or reproductive toxicity in the California Safe Drinking Water & Toxic Enforcement Act of 1986, CM&SC §§25249.5 *et seq.*; and CM&SC §§ 25249.8, 25117, 25316; all as such laws may be amended; any hazardous or toxic substance, material, chemical, waste or pollutant now or hereafter regulated under any other applicable federal, state or local environmental laws, without limitation; and any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

(ii) "Hazardous Discharge" and "Contamination" shall mean the happening of any event involving an emission, spill, release or discharge ("Release") into or upon (a) the air, (b) soils or any improvements located thereon, (c) surface or ground water, (d) the sewer, septic system or waste treatment, storage or disposal system servicing the Leased Areas, of any Hazardous Material, or (e) any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

(iii) "Environmental Laws" shall mean all applicable federal, state and local laws, ordinances, regulations, orders, procedures, policies and directives of every kind and nature whatsoever pertaining to Hazardous Materials in, at, on, under or from the Leased Areas or any portion thereof, and any other matter in the nature thereof arising pursuant to the jurisdiction of any public agency.

(b) City represents and warrants (i) to the best of the City's knowledge, the Property, as of the date of this Lease Agreement, is free of hazardous substances, including asbestos-containing materials and lead paint, and (ii) to the best of the City's knowledge, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. City and Lessee agree that each will be responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances, or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to that party's activity conducted in or on the Property.

(c) Lessee agrees to hold harmless and indemnify the City, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding ("Claims"),

to the extent arising from Lessee's breach of its obligations or representations under this Section 15. City hereby agrees that Lessee shall have no duties, responsibilities and liabilities at for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any Claims, to the extent arising from subsurface or other contamination of the Property with hazardous substances prior to the Effective Date of this Lease Agreement or from such contamination caused by the acts or omissions of the City during the Term except to the extent that Lessee's operations on the Property directly exacerbate such contamination .

(d) The indemnification of the City by Lessee in this Section 15 specifically includes reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Section 15 will survive the expiration or termination of this Lease Agreement.

(e) In the event Lessee becomes aware of any hazardous materials on the Property, or any environmental, health or safety condition or matter relating to the Property, that, in Lessee's sole determination, renders the condition of the Leased Areas or Property unsuitable for Lessee's use, or if Lessee believes that the leasing or continued leasing of the Leased Areas would expose Lessee to undue risks of liability to a government agency or third party, Lessee will have the right, in addition to any other rights it may have at law or in equity, to terminate this Lease Agreement upon written notice to City.

16. Frequency Compatibility and Interference. Lessee's operation of the Wireless Telecommunications Facility shall not interfere with any existing City, or City lessee's, communication systems for public safety or City operation purposes on the Property or nearby properties provided that such operation is installed and operating in compliance with applicable Laws. In addition, Lessee shall not interfere with any existing City commercial lessee's communication systems, provided that such operation is installed and operating in compliance with applicable Laws

Lessee shall provide for complete frequency compatibility with all other radio transmitting equipment currently existing on the property and any future equipment owned and installed by City for public safety or City operational purposes. In the event an interference problem arises which creates a bona fide emergency with the essential communications for public safety communication and data retrieval functions for the City, which interference problem cannot be eliminated by Lessee no more than twenty-four (24) hours after Lessee's receipt of notification to do so by City, then the Lessee must take the suspected portion of the Wireless Telecommunications Facility out of service until the problem is corrected to the affected city's satisfaction, at Lessee's sole expense.

If interference from Lessee's Wireless Telecommunications Facility is suspected in violation of this section, then the City will contract with a technical consultant who will provide determinations evaluating the interference, at Lessee's sole expense. If the technical consultant finds, after thorough conclusive diagnostics that Lessee's Wireless Telecommunications Facility is interfering with the City's equipment or antennas which have been installed and are operating in compliance with Laws, Lessee shall implement a solution in coordination with City. City shall have the right to terminate this Lease Agreement upon written notice in the event Lessee's Facility incurably interferes with the reception or transmission of City's communication system. Lessee shall also reimburse City for time and costs of City's staff expended to correct any interference.

17. Non-Interference by Subsequent Lessees. Any future lease of space on the Property which permits the installation of communications equipment shall be conditioned upon non-interference with Lessee's Wireless Telecommunication Facility, except for those temporary emergency communications systems installations by City or other public agency. The City agrees to coordinate efficient collocation of any new equipment and antennas and to promptly resolve any interference issues that may arise due to the presence of multiple lessees. In recognition of Lessee's critical need for a reliable communication system telecommunication service, the city agrees to take all necessary steps to ensure that existing and future lessees will not cause interference with Lessee's Antenna or Equipment. In the event of any interference to Lessee's Antenna or Equipment, Lessee shall notify the City, and within 72 hours after receipt of notification, the City will notify the party causing said interference to the Lessee's Antenna or Equipment to cease or require the cessation of all operations within 48 hours which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected. If interference to Lessee's Equipment cannot be resolved, Lessee will have the option, in addition to Lessee's right to exercise any and all rights available to it under this Lease Agreement and under law and equity, including without limitation Lessee's right to bring an action to enjoin such interference, to relocate to a new location on City Property, if available and not currently occupied or needed by City, and to recover from the interfering party any costs associated with such relocation or, to terminate this Lease Agreement.

18. Relocation.

(a) Temporary Relocation. Upon City's request, Lessee agrees to rearrange, reposition or relocate its Wireless Telecommunications Facility (or any portion thereof) on a temporary basis ("Temporary Relocation"), for the purpose of City performing maintenance, repair or similar work at the Property; provided, however, that:

(i) the Temporary Relocation is compatible for Lessee's use, in Lessee's reasonable determination;

(ii) City provides Lessee at least sixty (60) days' notice prior to requiring Lessee to rearrange, reposition or relocate;

(iii) Lessee's use is not interrupted or diminished during the Temporary Relocation and City allows Lessee, if necessary, in Lessee's reasonable determination, to place a temporary facility on the Property during any such relocation, subject to City's approval;

(iv) upon completion of any maintenance, repair or similar work by City, Lessee is permitted to return to its original location from the temporary location; and

(v) each party bears its own costs and expenses in connection with the Temporary Relocation.

To the extent that Lessee fails to perform its obligations under this Section 17(a), City may (but will not be obligated to) cause the Temporary Relocation to be performed at Lessee's sole cost and expense. City shall not be responsible for damage to, repairs to or maintenance of the Wireless Telecommunications Facility or for any associated costs except to the extent caused by City. Within thirty (30) days after a written demand from City, Lessee shall reimburse City for all actual and documented costs and expenses.

(b) Permanent Relocation. City shall have the one-time right to require Lessee to permanently relocate its Wireless Telecommunications Facility to another location on the Property (the "Relocation Area") during the Term of this Lease Agreement upon written notice not less than six (6) months prior to the requested date of relocation, with a map and description of the proposed Relocation Area. All reasonable and documented costs (not including lost profits whatsoever) incurred by Lessee for relocating the Wireless Telecommunications Facility to the Relocation Area and improving the Relocation Area so that it is fully compatible for the Lessee's use, in Lessee's reasonable determination (the "Relocation Costs"), shall be paid. as follows:

(i) if the relocation occurs during the Initial Term, City shall pay the Relocation Costs;

(ii) if the relocation occurs during the first Extended Term, City and Lessee shall split the Relocation Costs equally; or

(iii) if the relocation occurs at any time after the first Extended Term, Lessee shall pay the Relocation Costs.

Notwithstanding anything to the contrary stated herein, if City requires Lessee to relocate and the parties using good faith efforts to do so cannot mutually agree on the Relocation Area after City's notice to Lessee, then either party in its sole discretion may terminate this Lease Agreement upon six (6) months' prior written notice to the other party, with such termination being treated as the natural expiration of this Lease Agreement with no available additional terms or holdover.

19. Repair. If the Lessee damages asphalt, pavement, sidewalks, driveways, landscaping, irrigation, utility facilities, structures, or other improvements on the Property or the Leased Areas, the Lessee shall replace, repair, or restore such improvements to as close to their original condition as is reasonably possible, reasonable wear and tear, and damage from the elements excepted. The restoration work must comply will all applicable ordinances and regulations. In the event the Lessee's damage necessitates an immediate repair by the City, or any agency operating or maintaining the Property for the City, to either protect the Property or the public's health, safety, or welfare, the City will give the Lessee written notice of the damage and Lessee shall repair the damage within 24 hours after receiving the written notice. If the Lessee cannot repair said damage, City shall give the Lessee the circumstances requiring immediate repair, and the work be completed for the repair, and the Lessee shall then reimburse the City, or the agency operating or maintaining the Property for the City, for the reasonable repair costs within thirty (30) days following receipt of a written invoice by Lessee from City, accompanied by reasonable substantiation of any such costs. The Lessee shall maintain all such restoration for a period of one (1) year following the date the City acknowledges satisfactory completion of the work.

20. Condemnation. If all or part of the Leased Areas are taken by condemnation such that the Leased Areas are no longer usable for the purposes stated in this Lease Agreement, this Lease shall terminate unless Lessee's Wireless Telecommunications Facility can be relocated to another location on City property acceptable to Lessee if such space is available and does not interfere with the public use of the Property. Lessee shall be entitled only to that portion of the proceeds of condemnation which is directly attributable to the value of Lessee's interest in this Lease Agreement

21. Assignment

(a) Prohibition Against Assignment and Encumbrance. Except for a Permitted Transfer (as defined below), this Lease Agreement and any rights or obligations of Lessee hereunder shall not be sold, assigned, transferred, leased, assigned, sublet, conveyed, hypothecated, nor shall there be any grant of licenses, franchises or concessions, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any person, either in whole or in part, or in any manner, without the prior written consent of the City. Lessee shall not allow any other person or entity to occupy or use all or any part of the Leased Areas, without first obtaining the City's written consent.

In order to obtain City' written consent for any such assignment other than a Permitted Transfer, the proposed assignee or transferee must demonstrate to the satisfaction of City that it possesses the legal, financial and technical qualifications necessary to perform all the terms, conditions and obligations under this Lease Agreement for the remaining term thereof, and such reasonable additional obligations required by the assignee or transferee by the City for the specific and limited purpose of assuring the performance of all the terms, conditions and obligations of this Lease Agreement.

Notwithstanding the foregoing, Lessee shall have the right upon notice to the City, but without the necessity of the City' consent (each a "Permitted Transfer") to assign, sell or other transfer this Lease Agreement (i) to any Affiliate of Lessee; or (ii) in connection with the sale, merger, or exchange of substantially all of Lessee's assets in the FCC market area where the Property is located. An "*Affiliate" means with respect any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.* All successors to this Lease Agreement will be subject to all terms and conditions of this Lease Agreement.

(b) Involuntary Assignment. No interest of Lessee in this Lease Agreement shall be assignable by operation of law, including, without limitation, the transfer of this Lease Agreement by testacy or intestacy. Each of the following acts shall be considered an involuntary assignment:

(1) If Lessee is or becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or institutes a proceeding under the Bankruptcy Act in which Lessee is the bankrupt; or, if Lessee is a partnership or consists of more than one person or entity, if any partner of the partnership or other person or entity is or becomes bankrupt or insolvent, or makes an assignment for the benefit of creditors;

(2) If a writ of attachment or execution is levied on this Lease Agreement;

(3) If, in any proceeding or action to which Lessee is a party, a receiver is appointed with authority to take possession of the Leased Areas.

An involuntary assignment shall constitute a default by Lessee and City shall have the right to elect to terminate this Lease Agreement, in which case this Lease Agreement shall not be treated as an asset of Lessee.

If a writ of attachment or execution is levied on this Lease Agreement, Lessee shall have sixty (60) days in which to cause the attachment or execution to be removed. If any involuntary proceeding in bankruptcy is brought against Lessee, or if a receiver is appointed, Lessee shall

have one hundred twenty (120) days in which to have the involuntary proceeding dismissed or the receiver removed.

22. Indemnity. Lessee agrees to defend, indemnify, and hold City and its respective elected officials, officers, directors, employees, agents, and designated volunteers (collectively "Indemnities") harmless from and against any and all loss, liability, damage, including reasonable attorney's fees and court costs including expert witness fees, arising out of or related to, and to the extent caused by, the acts or omissions of Lessee, its employees, contractors, agents, representatives or designated volunteers in connection with this Lease Agreement, Lessee's use of the Leased Areas including the installation and operation of the Wireless Telecommunications Facility, and the activities and/or operations permitted by this Lease Agreement. Such obligations to defend, hold harmless and indemnify any of the Indemnities shall not apply to the extent that such Liabilities are caused by the negligence or acts or omissions of the Indemnities or any of them.

23. Encumbrance. The Lessee shall pay, or cause to be paid, all costs and expenses for work done by it, or caused to be done by it, on the Leased Areas of a character which will or may result in any lien on the Property. Likewise, the Lessee shall keep the Property free and clear of any mechanic's lien or other lien on account of work done for it or at its request. Should any claims of lien be filed and/or recorded against the Property, or any action affecting the title thereto commenced, Lessee shall give the City written notice promptly following Lessee's knowledge thereof.

24. Insurance. Lessee shall carry and maintain insurance or self-insurance during the Term of this Lease Agreement in the amounts and under the terms set forth in Attachment "D" against claims that may arise from or in connection with this Lease Agreement and the installation, maintenance, and operation of the Equipment, Antenna, and Wireless Telecommunications Facility on the Leased Areas. Upon at least sixty (60) days prior written notice to Lessee, Lessee shall comply with changes in the amounts and terms of insurance as may be required from time-to-time by City's Risk Manager in respect to comparable locations of the City but not more than once every five (5) years.

25. Entry by City and other lessees. Except in the event of a bona fide emergency for which no prior notice to Lessee shall be required, Lessee shall permit City, its officials, officers, employees, impacted lessee's, agents and designated volunteers to enter into and upon Lessee's equipment shelter upon reasonable prior written notice to Lessee (which in no event shall be less than two (2) business days prior written notice) for the purpose of inspecting the Leased Areas, enforcing the rules and regulations under this Lease Agreement, and the posting of such legal notices as City may deem necessary or convenient.

26. Notices. Wherever in this Lease Agreement it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the other, all notices, requests and demands hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

City: Brandon Cardwell
Innovation & Economic Development Director/Property Manager
City of Livermore
1052 South Livermore Avenue

Livermore, California 94550

Lessee: New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: CCL05197; Cell Site Name: Livermore City Hall Colo (**CA**)
Fixed Asset #: 15521701
1025 Lenox Park Blvd. NE, 3rd Floor
Atlanta, Georgia 30319

With copy to: New Cingular Wireless PCS, LLC
Attn: Legal Dept – Network Operations
Re: Cell site #: CCL05197; Cell Site Name: Livermore City Hall Colo (CA)
Fixed Asset #: 15521701
208 S. Akard Street
Dallas, TX 75202-4206

Any party may change such address or contact person by written notice by registered mail to the other.

27. Holding Over. Any holding over after the expiration of the Term of this Lease Agreement, with the consent of the City, shall be construed to be a tenancy from month to month at a monthly rate equal to 110% of the previous month's rent, and shall otherwise be on the same terms and conditions herein specified so far as applicable. Following termination or expiration of this Lease Agreement, the Lessee shall be responsible for the payment of Rent to the City until such time as the Equipment is removed from the Leased Areas and the Leased Areas are restored as provided for in Section 29.

28. Modification. This Lease Agreement may only be modified or amended by written agreement signed by all parties hereto, except that the number of extensions and the length of the initial term and extensions shall not be modified.

29. Default and Termination. During the Term of this Lease Agreement, City shall have the right to terminate Lease Agreement following an uncured default by Lessee of any material term of this Lease Agreement in accordance with this Section. Lessee shall have thirty (30) days following receipt of written notice from City to cure any such default, provided that if the nature of the default is such that additional time beyond thirty (30) days is needed to complete the cure, then no default shall be deemed to have occurred as long as Lessee has commenced to cure such default in good faith within such thirty (30) day period, and thereafter diligently prosecutes the cure to completion. The following will be deemed a default by City and a breach of this Lease Agreement: (i) City's failure to provide access to the Leased Premises as required by this Lease Agreement within Seventy-two (72) hours after written notice of such failure; (ii) City's failure to cure an interference problem as required by this Lease Agreement within seventy-two (72) hours after written notice of such failure; or (iii) City's failure to perform any term, condition or breach of any warranty or covenant under this Lease Agreement within thirty (30) days after written notice from Lessee specifying the failure. No such failure, however, will be deemed to exist if City has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. If City remains in default beyond any applicable cure period, Lessee will have the right to: (i) terminate this Lease Agreement, and (ii) any and all other rights available to it under law and equity and this Lease Agreement. Lessee, shall have the right to terminate this Lease upon 90 days written notice to City, if the approval of any agency, board, court, or other governmental authority necessary for the construction and/or operation of the

Wireless Telecommunications Facility is revoked or withdrawn so long as the Lessee pays City a termination fee equal to nine (9) months' Base Rent, at the then-current rate.

30. Removal, Restoration and Surrender of Leased Areas.

(a) All portions of the Wireless Telecommunications Facility brought onto the Property by Lessee will be and remain Lessee's personal property and, at Lessee's option, may be removed by Lessee at any time during the Term subject to the termination section. City covenants and agree that no part of the Wireless Telecommunications Facility constructed, erected or placed on the Leased Areas by Lessee will become, or be considered a part of, the Property, it being the specific intention of City that all improvements of every kind and nature constructed, erected or placed by Lessee on and/or within the Leased Areas will be and remain the property of Lessee. Within one hundred twenty (120) days of the termination of this Lease Agreement, Lessee shall surrender the Leased Areas to the City, remove all of Lessee's improvements and Lessee will, to the extent reasonable, restore the Leased Areas to its pre-construction condition on the Effective Date, reasonable wear and tear and loss by casualty or other causes beyond Lessee's control excepted. Lessee's restoration shall include the removal and or remediation of any hazardous materials generated by the Lessee's personal property as described and defined in Section 15. Lessee shall perform all restoration made necessary by the improvements or alterations or by the removal the Wireless Telecommunications Facility, connections, and other components of the Wireless Telecommunications Facility within the time periods stated in this Section. Lessee shall be liable to City for costs for storing, removing, and disposing of any improvements, alterations, Equipment, or Antenna that are not removed within the 120-day period.

(b) City may agree in writing to allow the Lessee to satisfy its obligation to remove the Wireless Telecommunications Facility, connections, and other components of the Wireless Telecommunications Facility by abandoning them in place. The City's written approval for the abandonment, if exercised, will be contingent upon Lessee satisfying such other terms and conditions as the City may impose, which at a minimum must include:

(1) The Wireless Telecommunications Facility and its connections are abandoned in the manner prescribed by the Community Development Director; and,

(2) Lessee submits to City an instrument in writing, approved by City Attorney, transferring ownership of the Facility and connections, and other components of the Wireless Telecommunications Facility in their AS IS and WHERE IS condition without representation or warranty of any kind or nature whereupon Lessee shall have no further responsibility for the maintenance, repair or removal related thereto.

Lessee waives all claims against City for any damage to Lessee resulting from City' retention or disposition of any such improvements, alterations, Equipment, Antenna, connections, or portion of the Wireless Telecommunications Facility.

(c) City waives any and all lien rights it may have, statutory or otherwise, concerning any portion of the Wireless Telecommunications Facility, all of which shall be deemed personal property for purposes of this Lease Agreement, regardless of whether any portion is deemed real or personal property under applicable law.

31. Warranties. City represents, warrants and agrees that: (i) City solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license and (ii) the Property is not and will not be encumbered by any liens, restrictions, mortgages, covenants, conditions,

easements, leases, or any other agreements of record or not of record, which would adversely affect Lessee's permitted use and enjoyment of the Leased Areas under this Lease Agreement.

32. Casualty. City will provide notice to Lessee of any casualty or other harm affecting the Leased Areas within forty-eight (48) hours of the casualty or other harm. If any part of the Wireless Telecommunications Facility or Leased Areas are damaged by casualty or other harm as to render the Leased Areas unsuitable, in Lessee's sole determination, then Lessee may terminate this Lease Agreement by providing written notice to City, which termination will be effective as of the date of such casualty or other harm. Upon such termination, Lessee will be entitled to collect all insurance proceeds payable to Lessee on account thereof and to be reimbursed for any prepaid rent on a pro rata basis. City agrees to permit Lessee to place temporary transmission and reception facilities that can be easily moved to accommodate construction activities (e.g., cell on wheels or COW) on the Areas, but only until such time as Lessee is able to activate a replacement transmission facility at another location; notwithstanding the termination of this Lease Agreement, such temporary facilities will be governed by all of the terms and conditions of this Lease Agreement, including Base Rent. If City or Lessee undertakes to rebuild or restore the Leased Areas as applicable, they agree to permit Lessee to place temporary transmission and reception facilities on City property in the vicinity subject to the Lessee obtaining any necessary governmental approvals. If City determines not to rebuild or restore the Leased Areas or Wireless Telecommunications Facility, City will notify Lessee of such determination within thirty (30) days after the casualty or other harm. City agrees that the Base Rent shall be abated until the Leased Areas are rebuilt or restored, unless Lessee places temporary transmission and reception facilities on the Property.

33. General Provisions.

(a) Time of the Essence. Time is of the essence of each provision of this Lease Agreement.

(b) Relationship of the Parties. Nothing contained in this Lease Agreement shall be deemed or construed by the parties or by a third party to create the relationship of principal and agent, and/or of partnership, and/or of joint venture, and/or of any association between the parties.

(c) Entire Agreement. This instrument, including any attachments hereto, constitutes the entire agreement of the parties relating to the subject matter of this Lease Agreement and correctly sets forth the rights, duties and obligations of each party to the other.

(d) Partial Invalidity. If any provision or portion of this Lease Agreement shall be deemed invalid by a court of competent jurisdiction, it is agreed that such invalidity shall affect only such provision or portion thereof, and the remainder of this contract shall remain in force and effect.

(e) California Law. This Lease Agreement shall be governed by and construed in accordance with the laws of the State of California.

(f) Review of Lease Agreement. Each party to this Lease Agreement declares that prior to the execution of this Lease Agreement, each party had the opportunity to seek the independent advice of counsel and that they apprised themselves of sufficient relevant information in order that they might intelligently exercise their own judgment in deciding whether to execute this Lease Agreement. Each party agrees that they have completely read and understood the Lease Agreement, know the contents thereof, and have signed the Lease of their

own free will and free of any duress. No single party has drafted this Lease Agreement and it shall not be interpreted against any party as the drafting party.

(g) Performance Excused. The Parties shall be excused from performance, as hereunder agreed to, if such performance is rendered impossible, impractical, or unreasonably difficult by, but not limited to, any strike, lockout, labor disturbance of any kind, civil commotion, war, acts of terrorism, shortage of any supply or labor, shortage of water, weather, Act of government authority, enactment or change in laws or regulations, breakdown of facilities or any cause outside of the Parties' control.

(h) [Intentionally omitted]

(i) Captions. The captions of this Lease Agreement shall have no effect on its interpretation.

(j) Singular and Plural. When required by the context of this Lease Agreement, the singular shall include the plural.

(k) Joint and Several Obligations. "Party" or "Parties," unless otherwise stated, shall mean the City and Lessee.

(l) Waiver. A term or condition of this Lease Agreement may be waived at any time by the party entitled to the benefit thereof, but no such waiver shall affect the right of the waiving party to require observance, performance or satisfaction either of that term or condition as it applies on a subsequent occasion or of any other term or condition. Lessee shall not be excused from complying with any of the terms and conditions of this Lease Agreement by any failure of the City upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

(m) Attachments. All attachments referred to in and attached to this Lease Agreement are incorporated by reference as though set forth in full.

(n) Attorney's Fees and Costs. If any party commences an action against another party to enforce this Lease Agreement, the prevailing party is entitled to reasonable attorney's fees, costs of suit, investigation costs and discovery costs, including costs of appeal.

IN WITNESS WHEREOF, the parties to this Lease Agreement have executed this Lease Agreement as of the dates set forth below.

Dated: 8/8, 2024

New Cingular Wireless PCS, LLC, a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: Michael Guibord
Director
Construction & Engineering

Dated: _____, 2024

City of Livermore

By: _____
Marianna Marysheva
City Manager

Approved as to Form:

By: _____
Deputy/Assistant/City Attorney

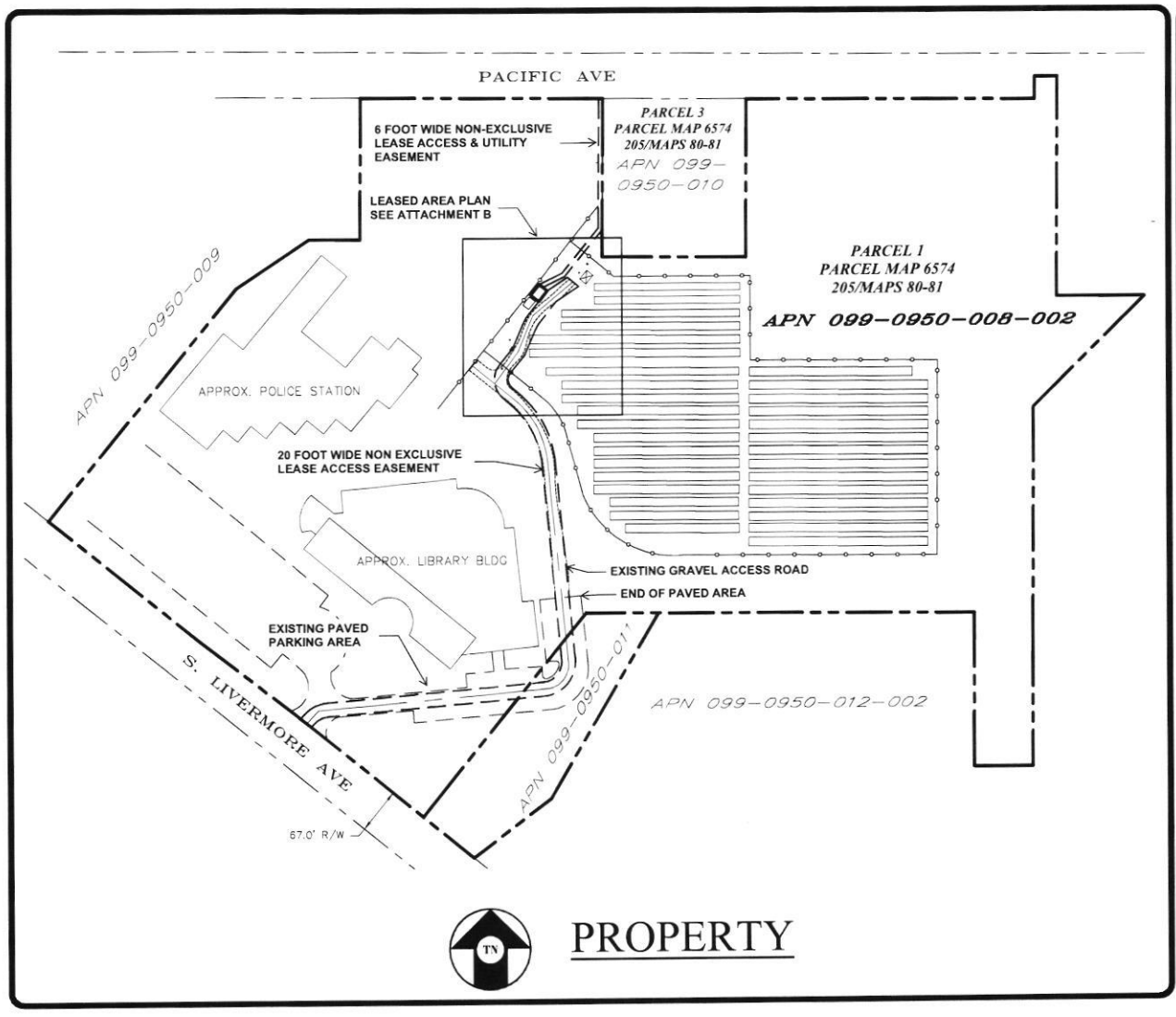
Attachments:

A. Property
B. Leased Areas
C. Proposed Wireless Telecommunication Facility with Equipment
D. Insurance Requirements

EXHIBIT B

ATTACHMENT A - PROPERTY

Real property in the City of Livermore, County of Alameda, State of California, described as follows:
BEING PORTIONS OF PARCELS 1 AND PARCEL 3 OF PARCEL MAP 6574, FILED MAY 3, 1993 IN BOOK 205 OF MAPS AT PAGES 80 - 81, OFFICIAL RECORDS OF ALAMEDA COUNTY
APN's: 099-0950-008-02 & 099 0950-010-00



STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

NAME:
LIVERMORE CITY HALL COLO

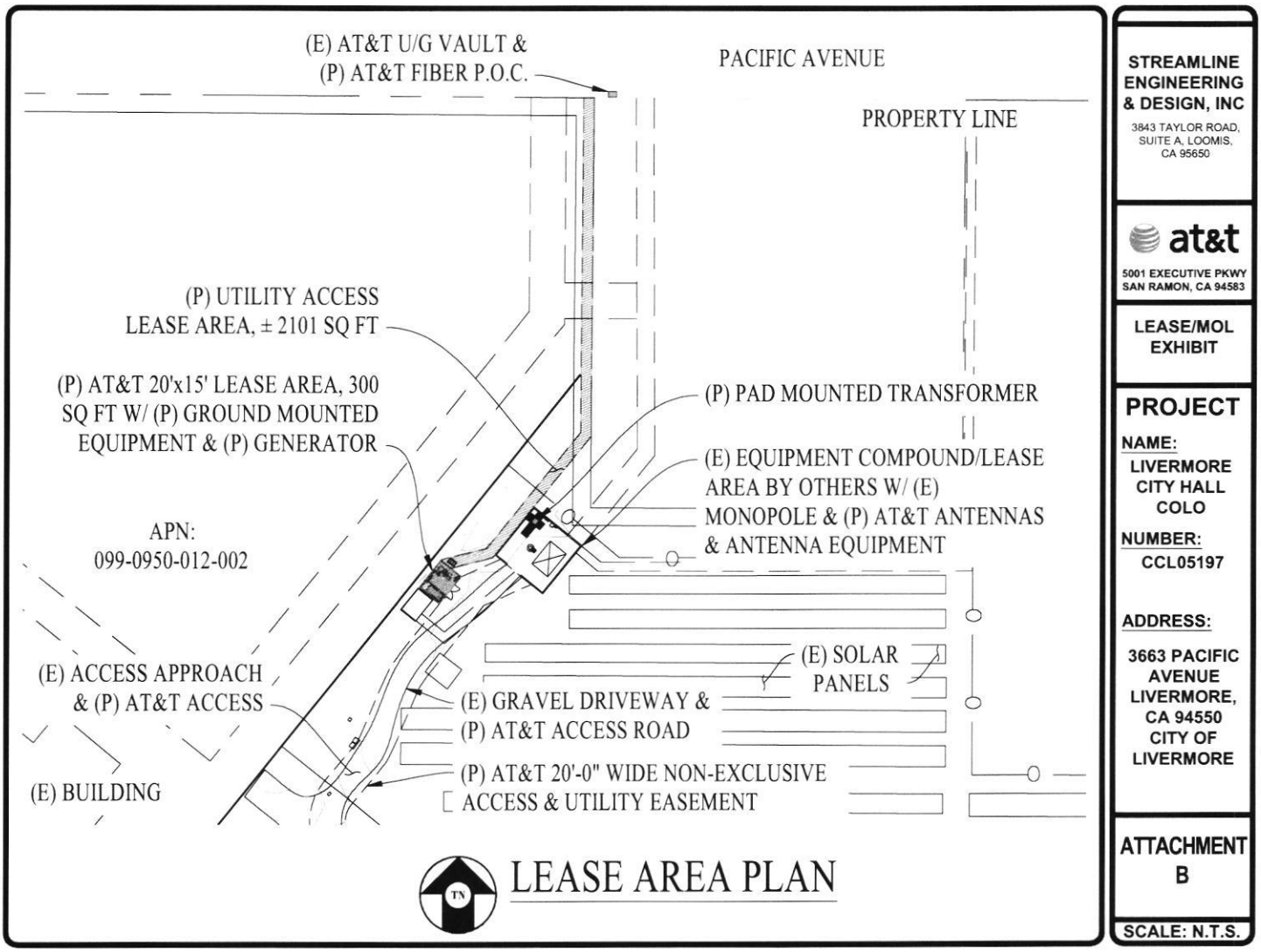
NUMBER:
CCL05197

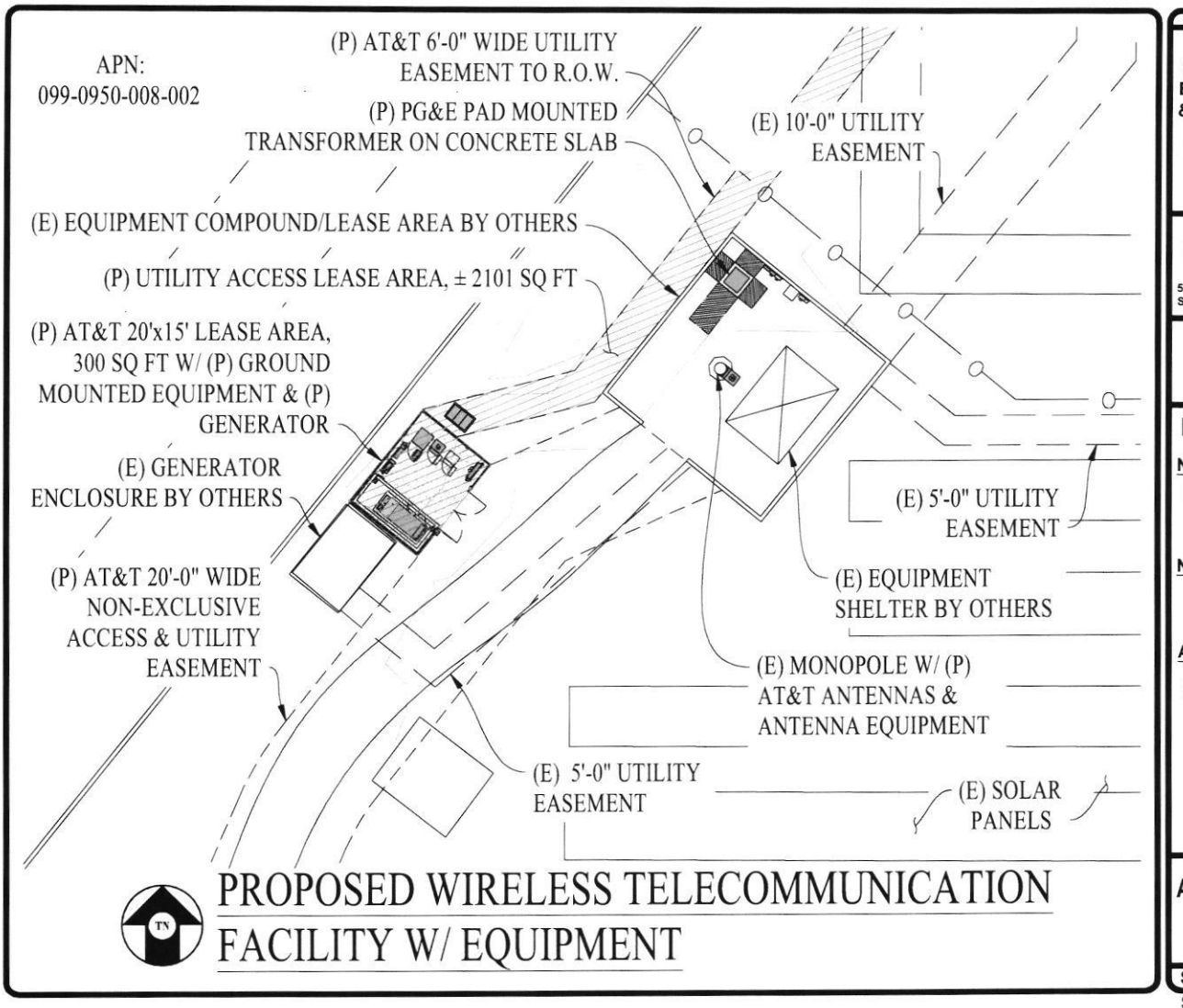
ADDRESS:
3663 PACIFIC AVENUE LIVERMORE, CA 94550 CITY OF LIVERMORE

ATTACHMENT A

SCALE: N.T.S.

Sheet 2 of 2


(E) AT&T U/G VAULT &
(P) AT&T FIBER P.O.C.
PACIFIC AVENUE
PROPERTY LINE
(P) UTILITY ACCESS
LEASE AREA, ± 2101 SQ FT
(P) AT&T 20'x15' LEASE AREA, 300
SQ FT W/ (P) GROUND MOUNTED
EQUIPMENT & (P) GENERATOR
(P) PAD MOUNTED TRANSFORMER
(E) EQUIPMENT COMPOUND/LEASE
AREA BY OTHERS W/ (E)
MONOPOLE & (P) AT&T ANTENNAS
& ANTENNA EQUIPMENT
APN:
099-0950-012-002
(E) SOLAR
PANELS
(E) ACCESS APPROACH
& (P) AT&T ACCESS
(E) GRAVEL DRIVEWAY &
(P) AT&T ACCESS ROAD
(P) AT&T 20'-0" WIDE NON-EXCLUSIVE
ACCESS & UTILITY EASEMENT
(E) BUILDING
TN
LEASE AREA PLAN
STREAMLINE
ENGINEERING
& DESIGN, INC
3843 TAYLOR ROAD,
SUITE A, LOOMIS,
CA 95650
at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583
LEASE/MOL
EXHIBIT
PROJECT
NAME:
LIVERMORE
CITY HALL
COLO
NUMBER:
CCL05197
ADDRESS:
3663 PACIFIC
AVENUE
LIVERMORE,
CA 94550
CITY OF
LIVERMORE
ATTACHMENT
B
SCALE: N.T.S.



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5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

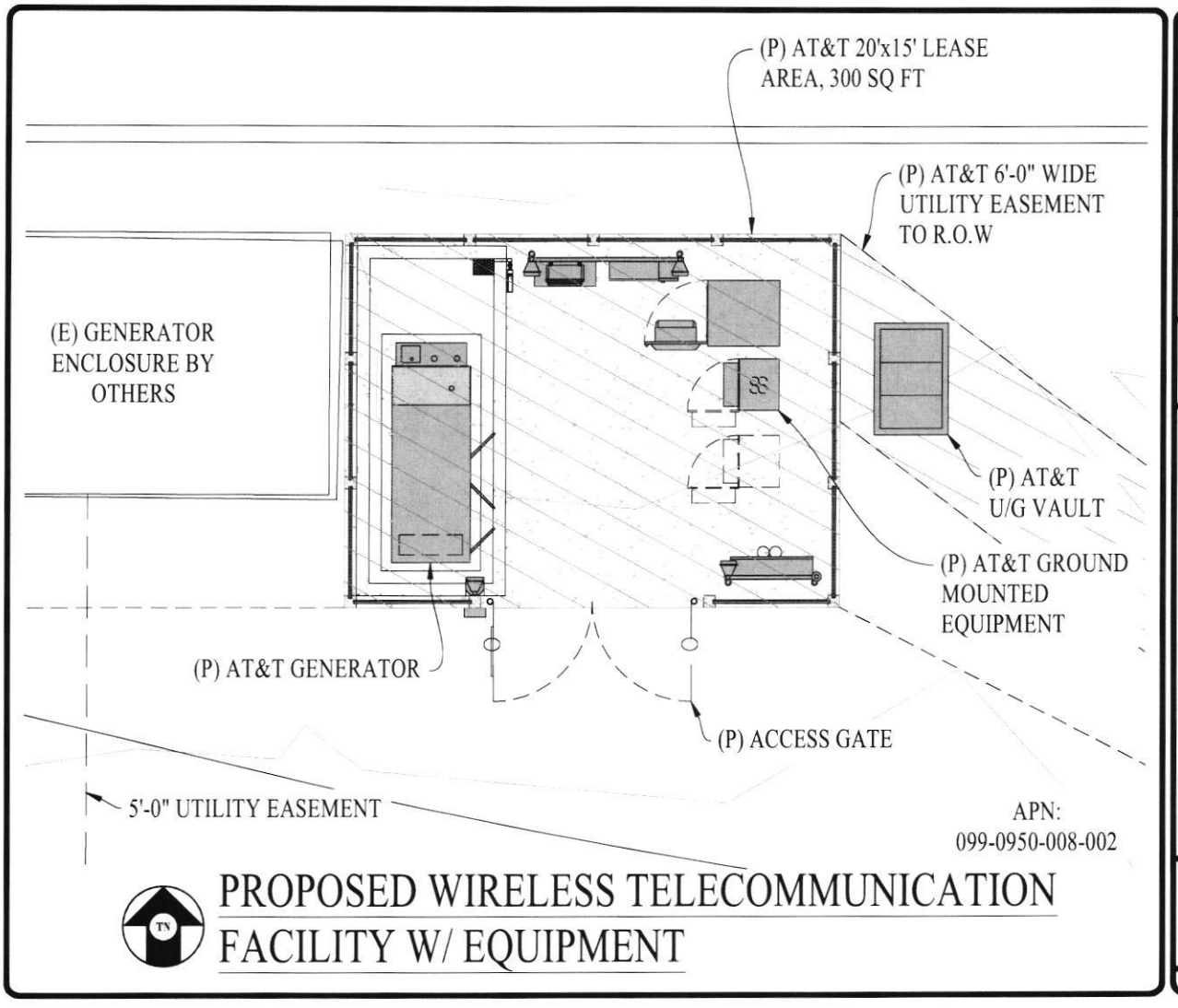
NAME: LIVERMORE CITY HALL COLO

NUMBER: CCL05197

ADDRESS: 3663 PACIFIC AVENUE LIVERMORE, CA 94550 CITY OF LIVERMORE

ATTACHMENT C

SCALE: N.T.S.
SHEET 1 OF 3



PROPOSED WIRELESS TELECOMMUNICATION FACILITY W/ EQUIPMENT

STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT

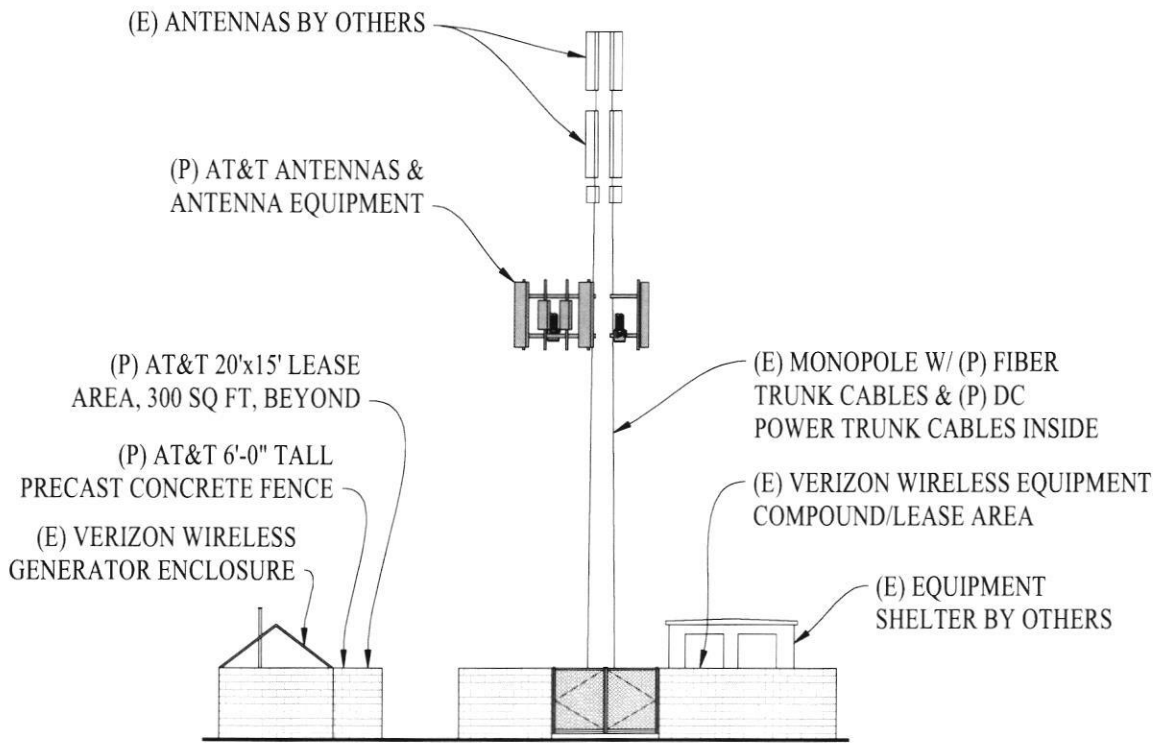
NAME: LIVERMORE CITY HALL COLO

NUMBER: CCL05197

ADDRESS: 3663 PACIFIC AVENUE LIVERMORE, CA 94550 CITY OF LIVERMORE

ATTACHMENT C

SCALE: N.T.S.
SHEET 2 OF 3



PROPOSED WIRELESS TELECOMMUNICATION FACILITY W/ EQUIPMENT

STREAMLINE ENGINEERING & DESIGN, INC
3843 TAYLOR ROAD, SUITE A, LOOMIS, CA 95650

at&t
5001 EXECUTIVE PKWY
SAN RAMON, CA 94583

LEASE/MOL EXHIBIT

PROJECT
NAME: LIVERMORE CITY HALL COLO
NUMBER: CCL05197

ADDRESS: 3663 PACIFIC AVENUE LIVERMORE, CA 94550 CITY OF LIVERMORE

ATTACHMENT C

SCALE: N.T.S.
SHEET 3 OF 3

EXHIBIT D

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance

Lessee shall maintain limits no less than:

1. Commercial General Liability, including operations, products, and completed operations, as applicable:
   $5,000,000 per occurrence/**$10,000,000** aggregate for bodily injury, personal injury, and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
   $2,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability:
   Statutory limits as required by the State of California including **$1,000,000** Employers' Liability per accident, per employee for bodily injury or disease. A waiver of subrogation is required for Workers' Compensation insurance.
4. Property Insurance:
   Total value of all tenant improvements, betterments, and contents. The City of Livermore shall be named as loss payee as its interest may appear. The insurer shall waive all rights against City.

Deductibles and Self-Insured Retention

Lessee or Lessee's parent company shall be responsible for payment of all deductibles, self-insured retentions or related costs. In the event that the City has tendered a claim to Lessee, or its insurer, or its insurer has denied coverage to the City, Lessee (in a local office) will make available to the City within fifteen (15) days of the City's written request to Lessee, a copy of actual, authentic and applicable insurance policies for review (but not for copying, faxing or otherwise reproducing any part of any policy or other insurance correspondence), subject to the City first executing Lessee's standard non-disclosure agreement. The policy review is limited to no more than three days during a consecutive six-month period and must be conducted during Lessee's normal business hours while the City's representative is accompanied by a Lessee Risk Management professional. Upon completion of review no copies will be made and all policies will be returned to Lessee's Corporate Risk Management Department. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII and accepted to do business in the State of California, unless otherwise acceptable to the City of Livermore.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Livermore, its officers, officials, employees, and designated volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Lessee; for automobiles owned, leased, hired or borrowed by the Lessee. The coverage shall contain no special limitations on the scope of protection afforded to the City of Livermore, its officers, officials, employees, or designated volunteers.
2. For any claims related to this project, Lessee's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 10 04 13. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City of Livermore before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.
3. Any failure to comply with reporting or other provisions of the policy, including breaches of warranties, shall not affect coverage provided to the City of Livermore, its officers, officials, employees, or designated volunteers.
4. The Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Lessee shall provide at least thirty (30) days' prior written notice by mail to the City of Livermore for cancellation of any required coverage that is not replaced.
6. It shall be a requirement under this agreement that any available insurance proceeds broader than, or in excess of, the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
7. Certificate Holder section of the insurance certificate should read: City of Livermore, 1052 S. Livermore Avenue, Livermore, CA 94550

The City shall not be liable for any consequential loss sustained by Lessee. City shall not be liable for any loss of Lessee's personal property. Notwithstanding the forgoing, Lessee may, in its sole discretion, self insure any of the required insurance under the same terms as required by this Lease Agreement. In the event Lessee elects to self-insure its obligation under this Lease Agreement to include City as an additional insured, the following conditions apply:

1. City shall promptly and no later than thirty (30) days after notice thereof provide Lessee with written notice of any claim, demand, lawsuit, or the like

for which it seeks coverage pursuant to this Section and provide Lessee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like;

2. City shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Lessee; and
3. City shall fully cooperate with Lessee the defense of the claim, demand, lawsuit, or the like.

Verification of Coverage

Lessee shall furnish certificates of insurance and endorsement(s) or self-insurance letters effecting coverage to the City of Livermore for approval. The endorsements shall be on forms acceptable to the City of Livermore. All certificates and endorsements or self-insurance letters are to be received and approved by the City of Livermore before work commences.

TENANT ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Contra Costa

On August 8, 2024 before me, M. Murphree, Notary Public
(insert name and title of the officer)

personally appeared Michael Guibord,
who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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)**

M. MURPHREE
Notary Public - California
Contra Costa County
Commission # 2374262
My Comm. Expires Sep 7, 2025

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.11**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing supplemental appropriations of carry-over budgets, $41,332 from the Traffic Impact Fee Fund 510 and $25,278 from the Park Fee - AB 1600 Fund 512, to complete the Traffic Impact Fee and Park Facility Fee Nexus Studies.

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution authorizing supplemental appropriations of carry-forward budgets, $41,332 from the Traffic Impact Fee Fund 510 to the FY 2024-25 engineering operating budget to complete the Traffic Impact Fee Nexus Study and $25,278 from the Park Fee - AB 1600 Fund 512, to the FY 2024-25 engineering operating budget to complete the Park Facility Fee Nexus Study.

SUMMARY

Traffic Impact Fee and Park Facility Fee Nexus Studies are currently being updated with Traffic Impact and Park Facility fee funds included in the FY 2023-24 engineering operating budgets of $80,000 and $35,000, respectively. City of Livermore (City) staff is coordinating with consultants to ensure that required general plan data is utilized consistently in both studies. As a result, there have been certain delays in the completion of the studies and all of the budgeted funds were not spent in FY 2023-24. Supplemental appropriations totaling the amount of unspent funds from the FY 2023-24 Traffic Impact Fee Fund 510 ($41,332) and the Park Fee Fund 512 ($25,278) into the appropriate FY 2024-25 operating budgets are required to pay for the completion of these studies.

DISCUSSION

City staff is conducting updates to the Park Facility (Park) and Traffic Impact Fee (TIF) Nexus Studies. These studies will identify park and street improvements required for General Plan build out. Additionally, the studies will identify any required adjustments to current Park and TIF development fees.

As part of the update, staff has been coordinating with their consultants making sure the required General Plan data is utilized consistently in both studies. Staff has also been coordinating with Administrative Services and Housing and Human Services who are in the process of conducting other nexus studies. The City's Traffic Impact Fee Study started first, and the consultant for the study has

generated the model that the other studies will be utilizing to ensure consistency in the data evaluated in each study.

As a result, there have been delays in the completion of both the Park and TIF studies while City staff and consultants make sure the model being used is accurate, consistent, and shared with the other City departments. This has delayed the spending of the initial anticipated FY 2023-24 budgeted funds.

FISCAL AND ADMINISTRATIVE IMPACTS

As of the close of FY 2023-24, the City has spent $38,668 of the $80,000 budgeted in FY 2023-24 from the Traffic Impact Fee Fund 510 and $9,722 of the $35,000 budgeted in FY 2023-24 from the Park Fee Fund 512. The studies are not complete and, as a result, supplemental appropriations totaling the amount of unspent funds from the FY 2023-24 Traffic Impact Fee Fund ($41,332) and the Park Fee Fund ($25,278) into the appropriate FY 2024-25 operating budgets are required to pay for the completion of these studies.

PILLAR

5: A City That Works

GOAL

14: Develop, operate, and maintain the City's infrastructure

ATTACHMENTS

1. Resolution

Prepared by: Mike Pato
Management Analyst II

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING SUPPLEMENTAL APPROPRIATIONS OF $41,332 FROM THE TRAFFIC IMPACT FEE FUND 510 AND $25,278 FROM THE PARK FEE-AB 1600 FUND 512 TO COMPLETE THE TRAFFIC IMPACT FEE AND PARK FACILITY FEE NEXUS STUDIES

The City of Livermore ("City") is currently updating its Traffic Impact Fee and Park Facility Fee Nexus Studies with FY 2023-24 engineering operating budgets of $80,000 and $35,000, respectively. City staff is coordinating with consultants to ensure the required general plan data is utilized consistently in both studies. As a result, there have been certain delays in the completion of the studies and, therefore, the City did not spend the total budgeted funds for the respective studies during FY 2023-24.

As of the close of FY 2023-24, the City has spent $38,668 of the $80,000 budgeted in FY 2023-24 from the Traffic Impact Fee Fund 510 and $9,722 of the $35,000 budgeted in FY 2023-24 from the Park Fee Fund 512 on the respective nexus studies. The studies are not complete and, as a result, supplemental appropriations totaling the amount of unspent funds from the FY 2023-24 Traffic Impact Fee Fund ($41,332) and the Park Fee Fund ($25,278) into the appropriate FY 2024-25 operating budgets are required to pay for the completion of these studies.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes a supplemental appropriation of $41,332 from the Traffic Impact Fee Fund 510 to the FY 2024-25 engineering operating budget to complete the Traffic Impact Fee Nexus Study.

2. Authorizes a supplemental appropriation of $25,278 from the Park Fee-AB 1600 Fund 512 to the FY 2024-25 engineering operating budget to complete the Park Facility Fee Nexus Study.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

RESOLUTION NO. _____

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.12**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing the execution of a second amendment to the Standard Services Agreement with the County of Alameda for Tri-Valley Shelter Programs operating subsidies to extend the term through June 30, 2025.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution:

1. Authorizing the City Manager, or her designee, to execute the Second Amendment to the Standard Services Agreement with the County of Alameda, attached hereto as Exhibit A, to extend the term of the Standard Services Agreement through June 30, 2025.
2. Authorizing the City Manager, or her designee, to execute all subsequent amendments to the Standard Services Agreement with the County of Alameda that extend the term of the Standard Services Agreement beyond June 30, 2025, so that the City and subrecipients may expend remaining HHAP funds.
3. Authorizing the City Manager, or her designee, to sign all documents related to the execution of grant agreements and, as appropriate, amended grant agreements with agencies receiving allocations of HHAP Rounds 3 and 4 funds from the City of Livermore, including agreements and amended agreements with agencies in amounts exceeding $200,000, consistent with the requirements of the Standard Services Agreement and all amendments thereto.
4. Authorizing the City Manager, or her designee, to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement attached hereto as Exhibit A.

SUMMARY

On February 7, 2023, the Alameda County Board of Supervisors approved $423,010 to the City of Livermore for HHAP Rounds 1 and 2 (October 1, 2022 - June 30, 2023) to provide operating subsidies in new and existing affordable supportive housing units at Goodness Village and Tri-Valley Haven's Emergency Shelter. The City and County entered into a Standard Services Agreement.

On October 24, 2023, the Alameda County Board of Supervisors approved the First Amendment of the

Standard Services Agreement. This First Amendment extended the term of the Standard Services Agreement through June 30, 2024, and appropriated $439,426 in HHAP Rounds 3 and 4 funds to the City to provide permanent, supportive housing, rental assistance and operating subsidies to Housing Consortium of the East Bay, Tri-Valley Haven and CityServe of the Tri-Valley.

On July 23, 2024, the Alameda County Board of Supervisors approved a second amendment to the Standard Services Agreement, extending the term of October 1, 2022 – June 30, 2024, by 12 months to June 30, 2025.

DISCUSSION

On July 31, 2019, Governor Newsom signed AB 101 into law, which established the HHAP Grant Program. The $2.95 billion in HHAP funds will be released in four rounds of funding through 2027. The block grant funding is set aside for large cities (300,000+ population), all California counties, and all Continuums of Care. Eligible large cities, counties, and Continuums of Care must submit a community plan to the State for approval prior to funding being released.

The $650 million State HHAP block grant is to support regional coordination and expand or develop local capacity to address immediate homelessness challenges in Continuums of Care (CoCs), large cities and counties. The funding allocation for each eligible entity is calculated based on the 2022 Point-In-Time Count. Alameda County was awarded $8,815,938 in total HHAP block grant funding.

The County of Alameda entered into a grant agreement with the State of California Homeless Coordinating and Financing Council for the HHAP Program which provides block grant funds to move homeless individuals and families into permanent housing and ensures those individuals and families maintain their permanent housing.

On April 25, 2022, the City Council adopted resolution 2022-061, ensuring the use of HHAP funds to support implementation of the State-approved, Alameda County Home Together Plan.

On February 7, 2023, the Alameda County Board of Supervisors approved $423,010 to City of Livermore for HHAP Rounds 1 and 2. On February 14, 2023, the County and the City entered into a Standard Services Agreement whereby the County retained the City to provide operating subsidies in new and existing affordable supportive housing units at Goodness Village and Tri-Valley Haven's Emergency Shelter.

On October 24, 2023, Alameda County Board of Supervisors approved HHAP Rounds 3 and 4, and a First Amendment to the Standard Services Agreement, extending the agreement to June 30, 2024, increasing the total not-to-exceed amount from $423,010 to $862,436 (a $439,426 increase) and adding additional projects and allowable services. On November 20, 2023, the County and City entered into the First Amendment to Standard Services Agreement whereby the County retained the City to provide permanent, supportive housing, rental assistance and operating subsidies at Vineyard, CityServe of the Tri-Valley and Tri-Valley Haven's Emergency Shelter.

As of June 30, 2024, the following HHAP funds have been expended:

Provider	Awarded Amount	Expended Amount	Remaining Amount

CityServe	$19,000	$17,962	$1,038
Tri-Valley Haven	$333,316	$279,326	$53,990
Vineyard	$401,660	$211,573	$190,087

On July 23, 2024, Alameda County Board of Supervisors approved HHAP Rounds 3 and 4 Second Amendment to the Standard Services Agreement extending the agreement to June 30, 2025, with no change to project, allowable services, or the total not-to-exceed amount of $862,436. Staff anticipate no issues with expending the remaining funds by June 30, 2025.

FISCAL AND ADMINISTRATIVE IMPACTS

None

COMMUNITY PILLAR

1: A Safe Community that Thrives

GOAL CATEGORY

8: Expand and improve access to human services

ATTACHMENTS

1. Resolution
2. Exhibit A - Second Amendment

Prepared by: Shelly Haynes
Management Analyst

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE STANDARD SERVICES AGREEMENT WITH THE COUNTY OF ALAMEDA FOR TRI-VALLEY SHELTER PROGRAMS OPERATING SUBSIDIES TO EXTEND THE TERM THROUGH JUNE 30, 2025

The County of Alameda entered into a Grant Agreement with the State of California, Homeless Coordinating and Financing Council for the Homeless Housing Assistance and Prevention ("HHAP") Program authorized by AB 101, which provides block grant funds to move homeless individuals into permanent housing and ensure those individuals maintain their permanent housing.

On February 7, 2023, the Alameda County Board of Supervisors allocated $423,010 in HHAP Rounds 1 and 2 funds to the City of Livermore. On February 14, 2023, the City of Livermore ("City") and Alameda County ("County") entered into a Standard Services Agreement whereby the County retained the City to provide certain operating subsidies to Goodness Village and Tri-Valley Haven. The City subsequently entered into subrecipient grant agreements with Goodness Village and Tri-Valley Haven.

On October 24, 2023, the Alameda County Board of Supervisors approved the First Amendment to the Standard Services Agreement, which extended the term of the Standard Services Agreement through June 30, 2024, and allocated $439,426 in HHAP Rounds 3 and 4 funds to the City. On November 13, 2023, the City Council adopted Resolution No. 2023-204, accepting the additional funds and authorizing the City Manager to execute all necessary subrecipient agreements and amendments thereto. The City Manager subsequently executed said agreements.

On July 23, 2024, the Alameda County Board of Supervisors approved the Second Amendment to the Standard Services Agreement, which extends the term of the Standard Services Agreement through June 30, 2025, allowing additional time to expend remaining HHAP Rounds 3 and 4 funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager, or her designee, to execute the Second Amendment to the Standard Services Agreement with the County of Alameda, attached hereto as Exhibit A, to extend the term of the Standard Services Agreement through June 30, 2025.

2. Authorizes the City Manager, or her designee, to execute all subsequent amendments to the Standard Services Agreement with the County of Alameda that extend the term of the agreement beyond June 30, 2025, so that the City and subrecipients may expend the remaining HHAP funds.

3. Authorizes the City Manager, or her designee, to sign all documents related to the execution of grant agreements and, as appropriate, amended grant agreements with agencies receiving allocations of HHAP funds from the City of Livermore, including agreements and amended agreements with agencies in amounts exceeding $200,000, consistent with the requirements of the Standard Services Agreement and all amendments thereto.

4. Authorizes the City Manager, or her designee, to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement attached hereto as Exhibit A.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Molly O'Toole
Molly O'Toole
Deputy City Attorney

Exhibit A – Second Amendment to the Standard Services Agreement with the County of Alameda

Master Contract No. 902012
Procurement Contract No. 24822

SECOND AMENDMENT TO AGREEMENT

This Second Amendment to Agreement ("Second Amendment") is made by the County of Alameda ("County") and City of Livermore, ("Contractor") with respect to that certain agreement, Master Contract No. 902012, Procurement Contract No. 24822, dated as of October 1, 2022, and as amended by the First Amendment to agreement executed on November 20, 2023, (referred to collectively herein as the "Agreement") pursuant to which Contractor provides Tri-Valley Shelter Programs - Operating Subsidies to County.

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and Contractor agree to amend the Agreement in the following respects:

1. Except as otherwise stated in this Second Amendment, the terms and provisions of this Second Amendment will be effective as of the date this Second Amendment is executed by the County.

2. The term of the Agreement expired on June 30, 2024. As of the date this Second Amendment is executed by the County, the term of the Agreement is extended through June 30, 2025.

3. Item 8, Payment, has been amended and replaced with the following:

   PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B, Exhibit B1-1, and Exhibit B2 hereto.

4. Item 20, Termination, is amended and replaced by the following:

   TERMINATION: The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B, Exhibit B1-1, and Exhibit B2 hereto, provided that the maximum amount payable to Contractor for their Tri-Valley Shelter Programs – Operating Subsidies shall not exceed $*862,436* payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.

5. Exhibit A2, Program Description and Performance Requirements, is incorporated into this Agreement by this reference and is effective as of July 1, 2024.

6. Exhibit B2, Terms and Conditions for Payment, is incorporated into this Agreement by this reference.

7. Attached hereto is Exhibit D2, a current Debarment and Suspension Certificate executed by Contractor.

8. Except as expressly modified by this Second Amendment, all of the terms and conditions of the Agreement are and remain in full force and effect.

Master Contract No. 902012
Procurement Contract No. 24822

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement as of the day and year this Second Amendment is executed by the County.

COUNTY OF ALAMEDA

By:_____
Signature

Name: Colleen Chawla
(Printed)

Title: Director, Health Care Services Agency

Date:_____

Approved as to Form: DONNA R. ZIEGLER
County Counsel, County of Alameda

By:_____
K. Joon Oh
Deputy County Counsel

CITY OF LIVERMORE

By:_____
Signature

Name: Marianna Marysheva
(Printed)

Title: City Manager

Date:_____

Approved as to Form: Molly O'Toole, Deputy City Attorney

By:_____
Molly O'Toole
Deputy City Attorney

By signing above, the signatories warrant and represent that they executed this Second Amendment in their authorized capacities and that by their signature on this Second Amendment, they or the entity upon behalf of which they acted, executed this Second Amendment.

EXHIBIT A2
PROGRAM DESCRIPTION AND PERFORMANCE REQUIREMENTS

Contractor Name:	**City of Livermore**
Contracting Department:	**Health Care Services Agency (HCSA)** **Office of Homeless Care and Coordination (OHCC)**
Original Term:	10/01/2022 – 6/30/2023
Original Amount:	$423,010
First Amendment Term:	10/01/2022 – 6/30/2024 (extension of 12 months)
First Amendment Amount:	$862,436 (increase of $439,426 amount)
Second Amendment Term:	**10/01/2022 – 6/30/2025 (extension of 12 months)**
Second Amendment Amount:	**$862,436 (no increase)**

The City of Livermore shall utilize HHAP funds towards the provision of the following services:

A. **Operating subsidies** in new and existing affordable or supportive housing units, emergency shelters, non-congregate shelters, interim or bridge housing, and navigation centers. Operating subsidies may include operating reserves.
B. **Rapid rehousing**, including rental subsidies and incentives to landlords, such as security deposits and holding fees.
C. **Permanent Housing** delivery of permanent housing and innovative housing solutions, such as
    a. hotel/motel conversions.

I. Funding Overview:

HHAP guidelines specify spending and reporting must be informed by a best practices' framework focused on moving homeless individuals and families into permanent housing and ensuring those individuals and families to maintain their permanent housing:

A. "Homeless," as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.
B. Housing-related activities funded with HHAP funds must be in compliance or otherwise aligned with the Core Components of Housing First, pursuant to Welfare and Institution Code Section 8255(b).
C. Pursuant to Assembly Bill 977, all HHAP funded projects must enter data into the local Homeless Management Information System (HMIS) (see Exhibit A2 – Reporting & Evaluation Requirements section for more information).

The HHAP Grant Agreement is incorporated into this Agreement by this reference and may be relied upon to interpret this Agreement.

II. Program Names and Locations:

Vineyard 2.0 – 460 N. Livermore Ave., Livermore, CA. (Permanent Housing)

Vineyard 2.0 – Permanent and supportive housing located in Livermore, service the Tri-Valley and Alameda County residents who are homeless.

Tri-Valley Haven Homeless Services (Interim Housing) – Confidential Address
Tri-Valley Haven Homeless Services – Emergency Shelter located in Livermore, serving Dublin, Pleasanton, and Livermore and Alameda County women and children who are homeless.

City Serve – 3311 Pacific Ave., Livermore, CA. (Rapid Rehousing)
City Serve of the Tri-Valley – Assist with rental subsidies to fund application fees, deposits and rental costs to help secure housing and assist individuals and families in transitioning into permanent housing.

III. **Contracted Services:**

A. **Vineyard 2.0** is a 23-unit site with 11 units of permanent supportive housing for households experiencing homelessness. Services include case management, homeless resource center, shower and laundry services, community kitchen, winter shelter, mailboxes, storage, and capacity to include pets. City of Livermore will subcontract with the Housing Consortium of the East Bay to operate the site. Referrals for units are facilitated through the County's Coordinated Entry System prioritization and processes. HHAP funding for this project will commence October 1, 2023.

B. **Tri Valley Haven Homeless Services** funding will be used to purchase a multi-passenger vehicle (van) for the Tri-Valley Haven Homeless Shelter staff to transport homeless individuals and their children entering the Haven's Homeless Shelter, Sojourner House. The vehicle will also be used to transport clients to vital appointments. A staff vehicle is the safest and most efficient way to transport homeless clients in need to the shelter. City of Livermore will subcontract with Tri-Valley Haven.

C. **City Serve Rental Assistance** (Rapid Rehousing) City Serve will provide direct deposits, rental assistance and/or any housing associated fees (applications, etc.) to securing housing for those currently experiencing homelessness to better support a seamless and timely transition into a permanent housing solution. Funding will support approximately 3 months of rental assistance per client and/or household. Referrals for units are facilitated through the County's Coordinated Entry System prioritization and processes. HHAP funding for this project will commence October 1, 2023.

HHAP funds shall be used for the operations and administration of the projects.

IV. Project Goals:

A. Provide low-barrier, compassionate, and non-judgmental services to literally homeless individuals.
B. Assist literally homeless individuals to rapidly obtain permanent housing.
C. Capture data in real-time in the Homeless Management Information System (HMIS) on all participants served and all significant services rendered**.**
    1. HMIS project enrollments for each participant accessing services.
    2. HMIS annual assessments as necessary for participants enrolled one year or longer

V. **Target Population:**
HHAP funds will be utilized to support adults and children experiencing homelessness in Alameda

County. Providing supportive services and shelter for individuals experiencing homelessness.

A. **Tri-Valley Haven Homeless Services (Interim Housing)**: The target population is homeless and indigent women and children. The clientele is primarily from the Tri-Valley Area and Alameda County. The Tri-Valley Haven Domestic Violence Shelter will work with community services and utilize referrals through the South County/Tri-City Housing Resource Center.

B. **City Serve (Rapid Rehousing)**: Target population is homeless individuals located in the Tri-Valley. The project will serve seven (7) individuals/ households.

C. **Vineyard 2.0 (Permanent Housing)**: Target population is Tri-Valley homeless individuals. The clientele is primarily from the Tri-Valley area and Alameda County. Eleven referrals will be made through Coordinated Entry and the remaining twelve referrals will come from HUD-VASH and project-based vouchers.

VI. **Program Outcomes:**

Contractor agrees to the following program success measures:

Process Objectives and Performance Measures
For each project listed below, subrecipient shall meet the following objectives, utilizing the County-adopted Results-Based Accountability (RBA) performance targets:

A. Vineyard 2.0
B. Tri-Valley Haven Homeless Services
C. City Serve Rental Assistance

A. Vineyard 2.0

Objective Type	Program Deliverable	Performance Measure	Data Source
How Much?	Enrollment and Services	Serve 100 unduplicated individuals during contract term.	HMIS
Is Anyone Better Off?	Obtaining or maintaining mainstream benefits	At least of 80% of participants in accessing mainstream benefits.	HMIS
	Maintenance of, or increases in income	At least 75% of consumers will have maintained or increased their income from program entry to their most recent update/ exit assessment.	HMIS
How Well?	Prevent homelessness	Less than 10% of enrolled consumers will exit the hotel to the streets, unknown, or other destinations (# exits from hotel to unstable situation/# enrolled consumers).	HMIS

B. Tri-Valley Haven Homeless Services

Objective Type	Program Deliverable	Performance Measure	Data Source
How Much?	Enrollment and Services	Serve 40 unduplicated individuals during contract term.	HMIS
Is Anyone Better Off?	Obtaining or maintaining mainstream benefits	At least of 80% of participants in accessing mainstream benefits.	HMIS
	Maintenance of, or increases in income	At least 75% of consumers will have maintained or increased their income from program entry to their most recent update/ exit assessment.	HMIS
How Well?	Prevent homelessness	Less than 10% of enrolled consumers will exit the hotel to the streets, unknown, or other destinations (# exits from hotel to unstable situation/# enrolled consumers).	HMIS

C. City Serve Rental Assistance

Objective Type	Program Deliverable	Performance Measure	Data Source
How Much?	Enrollment and Services	Serve 7 unduplicated individuals during contract term.	HMIS
Is Anyone Better Off?	Obtaining or maintaining mainstream benefits	At least of 80% of participants in accessing mainstream benefits.	HMIS
	Maintenance of, or increases in income	At least 75% of consumers will have maintained or increased their income from program entry to their most recent update/ exit assessment.	HMIS
How Well?	Prevent homelessness	Less than 10% of enrolled consumers will exit the hotel to the streets, unknown, or other destinations (# exits from hotel to unstable situation/# enrolled consumers).	HMIS

VII. Reporting & Evaluation Requirements:

For every participant served, Contractor will:

A. Comply with the following HMIS data entry requirements:
   1. Create a/an HMIS project(s) following the guidelines set forth in CA AB977;
   2. Ensure HMIS projects correctly identify appropriate funding sources for segmentation at the participant level to facilitate State-level reporting requirements (i.e., Homeless Housing, Assistance and Prevention (HHAP) funding for shelter support, separated by individual project.)
   3. Complete all entry/exit Universal Data Elements (UDEs), Common Data Elements (CDEs), and Item W5 of the Individual Federal Partner Program Elements in HMIS;
   4. Provide real-time (within twenty-four hours) data entry of all participants served into the HMIS. At a minimum, this includes the HMIS intake and project entries/exits, and services provided, as applicable;

B. Comply with the following HMIS reporting requirements:
   1. Generate and extract "Annual Performance Reports (APRs)" from the HMIS for each individual project type (i.e., Rapid Re-housing, Homeless Prevention, or relevant project);
   2. APRs will reflect the unduplicated total of persons served (including homeless persons or persons at imminent risk of homelessness);
   3. APRs shall not exceed 5% of null values in Questions 6a-f (Data Quality Sections); and
   4. APRs will be submitted:
      i. On a monthly basis – APRs shall accompany every monthly invoice and will reflect services provided during the invoiced period; and
      ii. On a quarterly basis – APRs shall accompany each Quarterly Outcomes Report and will reflect services provided during the quarterly period.

C. Provide Alameda County Health Care Services Agency with a dedicated point of contact for data quality and reporting (a 'data lead').

D. Complete all entry/exit Universal Data Elements (UDEs) in HMIS.

E. Provide real-time (within twenty-four hours) data entry of all participants served into the HMIS. At a minimum, this includes the HMIS intake and project entries/exits, and services provided, as applicable.

F. Provide an HMIS "Annual Performance Report (APR)" report for the duration of the monthly period, reflecting the unduplicated total of persons served (including homeless persons or persons at imminent risk of homelessness served). APR shall be extracted from the County's HMIS and shall not exceed 5% of null values in Questions 6a-f of the APR (Data Quality Sections).

G. APRs must be submitted for each individual project type (i.e., Rapid Re-housing, Homeless Prevention, or relevant project) reports as demonstrated within the Quarterly Outcomes Reporting. Quarterly Outcomes Reporting will require the following components:
   1. Brief Description of Contract Services Specific to the Quarterly Fiscal Year.
   2. APR for each individual project type Specific to the Quarterly Fiscal Year.
   3. Number of Unduplicated Participants Served in Quarterly Fiscal Year.
   4. Annual Target Number of Unduplicated Participants to be Served per Year.
   5. Number of Unduplicated Participants Served Fiscal Year to Date.
   6. Brief Narrative to Highlight Accomplishments Specific to the Quarterly Fiscal Year.
   7. Brief Narrative to Highlight Challenges Specific to the Quarterly Fiscal Year.

H. Ensure HMIS projects correctly identify appropriate funding sources for segmentation at the participant level to facilitate State-level reporting requirements (i.e., Homeless Housing, Assistance and Prevention (HHAP) funding for shelter support, separated by individual project.)
I. County shall have on-demand access to HHAP HMIS data and will regularly, but no less frequently than monthly, pull these data sets to create program performance dashboards on program outcomes listed above. Contractor agrees to work iteratively with County staff if data quality issues are identified during the course of reporting evaluation and dashboard creation, and to correct all data entry errors identified by County staff in a timely manner.
J. In the event HMIS is not available for a prolonged period, Contractor agrees to work with County staff to develop a comparable interim data collection solution. This interim solution shall pertain to all provisions in this Exhibit that otherwise refer to HMIS data collection, until such time as HMIS becomes sufficiently available and staff can be trained to use it. Contractor further agrees to ensure that all data recorded in this interim solution is eventually transferred to HMIS when it becomes available for use.
K. Contractor further agrees to ensure that all data recorded in this interim solution is eventually transferred to HMIS when it becomes available for use.
L. Provide spending reports and accompanying documentation, with format and frequency as required by other funding sources.
M. Contractor must undertake continuous quantitative and qualitative (extracted from HMIS) evaluation of the Scope of Services as specified in this Agreement and shall share quarterly and annual written reports as demonstrated within HMIS.
N. Capture data for Domestic Violence shelter reporting requirements for HHAP funds on all participants served and all significant services rendered, inputted and extracted from an HMIS-comparable database system, including:
    1. Numbers Served: Captures number of individuals and households served by various sub-population breakdowns.
    2. Outcomes: Captures exit destination of populations covered by the APR (all, veterans, youth)
    3. Supplemental: Captures exit destination of populations not covered by the APR (CH, race, ethnicity, gender)
P. Numbers reported should be persons served by the entire project regardless of how much of the project was funded by HHAP.
Q. Reports as demonstrated in Exhibit B2

VIII. Quarterly Reporting Deadlines:

Service Period	Due to County
Q1 07/01/2024 – 09/30/2024	10/15/2024
Q2 10/01/2024 - 12/31/2024	01/15/2025
Q3 01/01/2025 - 03/31/2025	04/15/2025
Q4 04/01/2025 - 06/30/2025	07/15/2025

IX. Program Monitoring:

The County staff liaison will facilitate program monitoring, which may include a review of operations, participant eligibility, participant records, including any required releases or documentation for federal/county funding, backup documentation for reporting progress towards meeting service and

outcome objectives, coordination and communication with The City of Livermore and Alameda County, and coordination with service providers who come to the site or serve as participant referrals.

X. Fiscal Compliance and Contract Monitoring:

A. Fiscal monitoring may include review of the Grantee's organizational budget, the general ledger, quarterly balance sheet, cost allocation procedures and plan, State and Federal tax forms, audited financial statement, fiscal policy manual, supporting documentation for selected invoices, cash receipts and disbursement journals.

B. Compliance monitoring will include review of Personnel Manual, Policy Manuals or Documentation, Compliance with the Americans with Disabilities Act, subcontracts, and MOUs.

C. The County staff liaison will visit the project site periodically to review records and observe activities. The Contractor will provide participants' names, addresses, and telephone numbers to designated County staff liaison(s) in accordance with applicable laws and regulations.

XI. Additional Requirements:

A. Contractor agrees that only the following reasons, adapted from the Alameda County Shelter Standards [1] (updated April 2022) Section A.36, may be used as a basis for discharge from shelter programs. Only the following reasons may be used as a basis for discharge from a shelter facility:

1. Possession of a weapon at the facility
2. Possession of illegal drugs on premises. If alcohol or drugs are found, participant should be given the opportunity to dispose of the prohibited substance or leave the shelter for that night if they do not wish to dispose of the prohibited substance. A violation of this policy cannot be a reason for discharge unless the violation compromises the health or safety of other participants or staff, or repeatedly interferes with the rights of other participants to peaceful enjoyment of the facility.
3. Assault or other violent behavior
4. Theft
5. Destruction of property
6. Restraining order precludes continued residence
7. Participant behavior endangers health or safety of participants or staff
8. Repeated interference with the rights of other participants to peaceful enjoyment of the facility.
9. Presence of infectious disease that significantly increases the risk of harm to other participants. Note that participants with lice or scabies or exhibiting symptoms of TB should be allowed to stay in shelter and sent to a health care provider for treatment as soon as possible. Precautions should be taken to avoid spread as feasible. Noncompliance with treatment or containment measures that endangers other participants may be cause for discharge.
10. Participant requires care and supervision to manage their activities of daily living (feeding, toileting, selecting proper attire, grooming, maintaining continence, putting on clothes, bathing, walking and transferring) without appropriate supports available on-site. Individuals discharged due to care and supervision needs cannot be discharged to the streets.

1 Source for this information can be found here Alameda County Emergency Shelter Standardss - 4/23/2023 (acgov.org)

11. Participants may be discharged for refusing to work towards a housing plan and/or refusing multiple housing opportunities; however, evidence must be present that shelter and respite staff actively attempted to engage the participants in services designed to support an exit to stable permanent housing with consideration given to each participants barriers to engagement.

B. Contractor may not impose arbitrary lengths of stay for participants who are otherwise compliant with these protocols. Any discharge for a violation of these protocols must be fully documented (for example, in agency case notes) and made available to County, upon request. Participants who are discharged shall be afforded the opportunity to file a grievance. Contractor agrees to establish a grievance policy for the shelter and respite programs that shall comport with any Alameda County Coordinated Entry System[2] grievance policy guidelines.
While participants may be encouraged to get a TB test, lack of a test cannot be used as a reason for discharge. If a participant exhibits symptoms of TB and does not comply with testing and treatment recommendations, the participant may be discharged to protect the health and safety of other participants and staff.

XII. <u>Certification/Licensure/ Confidentiality</u>

A. Contractor will maintain all required licenses and special permits issued by federal, state, and local agencies related to the services it provides.
B. Contractor shall conform to all federal and state laws relating to confidentiality of patients' medical information, including but not limited to HIPAA and HITECH when applicable.

2 Source for this information can be found here Alameda County Coordinated Entry Policies 02.22.pdf (acgov.org)

EXHIBIT B2
TERMS AND CONDITIONS FOR PAYMENT

Unless expressly modified by this Exhibit B2, all of the terms and conditions of the Exhibit B and Exhibit B1-1 remain in full force and effect.

I. Budget Summary (07/01/2024 - 6/30/2025)

A. Contractors' expenditures shall be in accordance with the chart set forth below.

Category	10/1/2022 – 6/30/2023	**07/01/2023 – 06/30/2025**	**Updated Budget**
Goodness Village	$108,460		**$108,460**
Tri-Valley Haven Homeless Services (Shelter)	$314,550	**$18,766**	**$333,316**
City Serve (Rapid Rehousing)			
Direct subsidy		$17,670	
Admin		$1,330	
Subtotal		**$19,000**	**$19,000**
Vineyard 2.0 (Perm Housing)			
Admin		$15,500	
Management Fee		$13,000	
Utilities		$25,250	
Personnel (HRC Manager, Shelter Coordinator, Shelter Street Outreach)		$289,760	
Maintenance		$35,750	
Other Expenses (shower, laundry, phone/internet, etc.)		$22,400	
		$401,660	**$401,660**
TOTAL	**$423,010**	**$439,426**	**$862,436**

B. HHAP allowable funds are limited to:

i. **Operating subsidies** in new and existing affordable or supportive housing units, emergency shelters, non-congregant shelters, interim or bridge housing, and navigation centers. Operating subsidies may include operating reserves.

ii. **Rapid rehousing**, including rental subsidies and incentives to landlords, such as security deposits and holding fees.

iii. **Permanent Housing** delivery of permanent housing and innovative housing solutions, such as hotel/motel conversions.

C. Funding Sources:

Original Contract	
HHAP Round 1, 2	$423,010
Amendment #1	
HHAP Round 3	$277,726

HHAP Round 4	$161,700
Total	**$862,436**

II. Terms and Conditions of Payment:

A. The funding amount under the terms of this Exhibit B2 for services provided under Exhibit A1, and Exhibit A2 is $439,426 and the total amount of reimbursement shall not exceed the total dollar awarded(**$862,436**) under the terms of this Agreement. Funds shall be used solely in support of the program budget, as set forth in Exhibit B2.
   a. Any start-up expenditures or other advance payment are subject to the County's Cash Advance Policy and Government Code 11019:
      i. Contractor must be a community-based, private, nonprofit organization.
      ii. Advance payments will be considered at the beginning of the contract period on a case-by-case basis in response to critical financial need and the inability to reasonably meet payroll and operating expense requirements in a timely manner.
      iii. A cash advance may be granted only once a year at the beginning of the contract period for expenses associated only with Alameda County contracts and is not to exceed the equivalent of the value of the contract divided by the number of months in the contract.
      iv. The cash advance must be repaid in cash and include a recoupment plan.
      v. Any cash advance request must be in the form of a letter from the organization's Executive Director submitted to the supervising department, with a Cash Advance Request Form completed. Departments will review each request within three weeks and forward the request to the Auditor for processing. The reason for any denial will be stated in writing to the Contractor.

B. Contractor shall invoice the County not more than monthly for actual expenses incurred.

C. The final invoice shall be for an amount not to exceed the remaining balance of the contract. The final invoice and accompanying reports must be received no later than **August 1, 2025**.

D. Budgets amounts may vary between line items only with H&H written consent. Funds shall be used solely in support of the project's program budget.

E. All invoices must be accompanied by reports described in Exhibit A2 upon contract execution.

F. County shall use best efforts to process invoices submitted for reimbursement by Contractor within forty-five (45) working days of receipt, review, and approval of complete and accurate invoice, reports, and any other back up documentation, information, or reports as requested.

III. **Invoicing Procedures:**

A. Invoices must include:
   i. Purchase Order (PO) number
   ii. invoice date
   iii. invoice number
   iv. service period
   v. contract balance
   vi. actual expenditures (which may not exceed the budget in Exhibit B2)
   vii. invoice total amount
   viii. accompanied by all required reports as delineated in the Reporting & Evaluation Requirements section in Exhibit A2
   ix. Any other back up documentation, information, or reports as requested, and invoice shall be emailed to:

Colleen Budenholzer: Colleen.Budenholzer@acgov.org
CC: HH.Contracts@acgov.org

B. Contractor shall ensure that all sub-contracts, scopes of services, line-item budgets, budget narratives and required reports are submitted in the format as set forth by County, State and Federal mandates depending on funding sources. The decision to approve or disapprove any subcontracts will be based on the information contained in the contract documents. Therefore the contracts must, as applicable, describe the activities or functions involved, a time schedule, a justification for the performance by a third-party, rate of compensation, a breakdown of and justification for the estimated costs, including the manner in which indirect costs, if any, will be reimbursed, the grant policies and requirements that are applicable to sub-contractor, other policies and procedures to be followed, the maximum amount of money for which Contractor may become liable under the agreement, and the cost principles to be used in determining allowable costs in the case of cost-type contracts.

C. The County and/or Auditor-Controller may withhold payment of all or a portion of Contractor's claim for reimbursement of expenses when the Contractor has not complied with provisions of the current Agreement or a prior Agreement. Such matters of non-compliance may include, but are not restricted to, the delivery of patient and related services, submission of consumer service data and required reports, submission of documents supporting reimbursement requests which verify expenditures incurred, maintenance of proper records, submission of revenue reports, disallowance as a result of interim audit or financial compliance evaluations, or other conditions as required in this Agreement by Federal, State or County regulations. If payment of claims is to be delayed, the following procedures will be followed:

1. Contractor shall be notified by telephone within seven (7) working days of the receipt by County of Contractor's claim if there is a reason for delaying or withholding payment.
2. The County shall provide written confirmation of reason(s) for delaying or withholding payment if the matter cannot be resolved within ten (10) working days of receipt of claim.
3. The County shall not be required to give written notice of the withholding action if an invoice must be held pending revisions, corrections, or amendments. It is the Contractor's responsibility to correct invoice documents. In all cases, the Contractor shall be notified of the errors and corrective action needed. The withholding action shall be discussed with the Contractor at the time errors are brought to the Contractor's attention. The County may, with Contractor's consent, make minor adjustments on invoices to correct mathematical/typographical errors to expedite the claims process.

D. Contractor shall submit all final claims for reimbursement under this Agreement within forty-five (45) days following the expiration of this Agreement. All claims submitted after forty-five (45) days following the expiration date of this Agreement will not be subject to reimbursement by the County. Any "obligations incurred" which are included in the claims for reimbursement and paid by the County, but which remain unpaid by the Contractor after forty-five (45) days following the expiration date of the Agreement will be disallowed under audit by the County.

IV. <u>Sub-Contractor Requirements:</u>

A. If a portion of the services under this Agreement are to be performed by a third-party, Contractor must submit a formalized agreement to the County for approval prior to the execution of the contract and the provision of services by the sub-contractor. Failure to initiate,

request, and receive written prior approval of sub-contractor may result in the disallowance of payments to the third-party.

B. Contractor shall ensure that all subcontracts, scopes of services, line-item budgets and budget narratives are submitted in the format as set forth by County, State and Federal mandates depending on funding sources. The decision to approve or disapprove any sub-contracts will be based on the information contained in the contract documents. Therefore the contracts must, as applicable, describe the activities or functions involved, a time schedule, a justification for the performance by a third-party, rate of compensation, a breakdown of and justification for the estimated costs, including the manner in which indirect costs, if any, will be reimbursed, the grant policies and requirements that are applicable to sub-contractor, other policies and procedures to be followed, the maximum amount of money for which Contractor may become liable under the agreement, and the cost principles to be used in determining allowable costs in the case of cost-type contracts.

C. Contractor shall reimburse subcontractors or personal consultants only for those services provided or for those activities performed pursuant to this Agreement.

V. <u>Financial Controls, Records, and Audit:</u>

A. Financial Records: Contractor has sole authority over accounting and systems for the development, preparation and safekeeping of records and books of account relating to contracted services, including the preparation and submission of any cost reports, supporting data and other materials in connection with reimbursement under Medicaid and other third-party payment contracts and programs.

B. Audit: Contractor will participate in an annual fiscal audit to be pre-scheduled and conducted by the County. The fiscal audit will include a financial review of one monthly reimbursement request, specifically: verification of all related financial support documentation utilized in the development of the specific reimbursement request; and, examination of Contractor financial record-keeping systems and procedures relative to the development of the reimbursement request and receipt of payment. Upon completion of the annual fiscal audit the County will provide Contractor a finding report with applicable corrective measures, as necessary. Timelines for executing applicable corrective measures shall be negotiated between Contractor and the County.

VI. <u>Other Provisions:</u>

A. The continuation of this Agreement and payments hereunder shall be subject to the availability of funds to the County of Alameda. Alameda County agrees to notify the Contractor in writing of any modifications related to changes in available funding.

B. Should the State of California, Federal Government, or other funding source refuse to reimburse County (or disallow payment, including based upon audit exceptions) for any relevant claim submitted to County by Contractor, Contractor agrees to reimburse County for all such claims or disallowances. Any such disallowances or penalties resulting will be the sole responsibility of the Contractor.

EXHIBIT C
COUNTY OF ALAMEDA MINIMUM INSURANCE REQUIREMENTS

Without limiting any other obligation or liability under this Agreement, the Contractor, at its sole cost and expense, shall secure and keep in force during the entire term of the Agreement or longer, as may be specified below, the following minimum insurance coverage, limits and endorsements:

	TYPE OF INSURANCE COVERAGES	MINIMUM LIMITS
A	**Commercial General Liability** Premises Liability; Products and Completed Operations; Contractual Liability; Personal Injury and Advertising Liability; Abuse, Molestation, Sexual Actions, and Assault and Battery	$1,000,000 per occurrence (CSL) Bodily Injury and Property Damage
B	**Commercial or Business Automobile Liability** All owned vehicles, hired or leased vehicles, non-owned, borrowed and permissive uses. Personal Automobile Liability is acceptable for individual contractors with no transportation or hauling related activities	$1,000,000 per occurrence (CSL) Any Auto Bodily Injury and Property Damage
C	**Workers' Compensation (WC) and Employers Liability (EL)** Required for all contractors with employees	WC: Statutory Limits EL: $1,000,000 per accident for bodily injury or disease
D	**Professional Liability/Errors & Omissions** Includes endorsements of contractual liability and defense and indemnification of the County	$1,000,000 per occurrence $2,000,000 project aggregate

E **Endorsements and Conditions:**

1. **ADDITIONAL INSURED:** All insurance required above with the exception of Professional Liability, Commercial or Business Automobile Liability, Workers' Compensation and Employers Liability, shall be endorsed to name as additional insured: County of Alameda, its Board of Supervisors, the individual members thereof, and all County officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13.
2. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of the Agreement. In addition, Insurance policies and coverage(s) written on a claims-made basis shall be maintained during the entire term of the Agreement and until 3 years following the later of termination of the Agreement and acceptance of all work provided under the Agreement, with the retroactive date of said insurance (as may be applicable) concurrent with the commencement of activities pursuant to this Agreement.
3. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to the County. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04 13. Pursuant to the provisions of this Agreement insurance effected or procured by the Contractor shall not reduce or limit Contractor's contractual obligation to indemnify and defend the Indemnified Parties.
4. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with a A.M. Best Rating of no less than A:VII or equivalent, shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the County. Acceptance of Contractor's insurance by County shall not relieve or decrease the liability of Contractor hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Contractor.
5. **SUBCONTRACTORS:** Contractor shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit. The additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13.
6. **JOINT VENTURES:** If Contractor is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:
   - Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured" (covered party), or at minimum named as an "Additional Insured" on the other's policies. Coverage shall be at least as broad as in the ISO Forms named above.
   - Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured".
7. **CANCELLATION OF INSURANCE:** All insurance shall be required to provide thirty (30) days advance written notice to the County of cancellation.
8. **CERTIFICATE OF INSURANCE:** Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notices provision.

Local Agency Workers' Compensation Excess Joint Powers Authority

1750 Creekside Oaks Drive, Sacramento, CA 95833
916-244-1100

Workers' Compensation Certificate of Coverage

Certificate Number: 81128217

Certificate Holder: County of Alameda
Healthcare Services Agency

1404 Franklin Street, Suite 300
Oakland, CA 94612

Covered Party: City of Livermore

Description of Covered Activity: As respects evidence of workers' compensation coverage for the City of Livermore regarding the First Amendment to Grant Agreement Master Contract No. 902012, Procurement Contract No. 24822 for the Homeless Housing, Assistance and Prevention (HHAP) Program to provide Tri-Valley Shelter Program - Operating Subsidies.

Memorandum of Coverage Number: LAWCX 24.25 **Effective Date:** 7/1/2024 **Expiration Date:** 7/1/2025

Limits: $5,000,000 (per occurrence)

Excess of: $500,000

The Following Coverage is in effect: Workers' Compensation coverage as defined in the Memorandum of Coverage on file with the covered party named above.

This is to certify that the coverage listed above has been issued to the Covered Party named above for the coverage period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The coverage afforded as described herein is subject to all the terms, exclusions, and conditions of the Memorandum of Coverage of the LAWCX, which is available for your review upon request.

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the Workers' Compensation Memorandum of Coverage.

Coverage is in effect from 12:01 a.m. Pacific Time of effective date to 12:01 a.m. Pacific Time of expiration date as stated above and will not be canceled, limited, or allowed to expire except upon 30-day notice to the certificate holder.

Date Issued: 7/24/2024

Renewal: No **PRISM Certificate Issued:** Yes

Authorized Representative Signature: RWinger

CERTIFICATE NO. WC-1610

CERTIFICATE OF COVERAGE

ISSUE DATE 06/28/2024

PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT

C/O ALLIANT INSURANCE SERVICES, INC.
18100 VON KARMAN AVENUE, 10TH FLOOR
IRVINE, CA 92612
PHONE (949) 756-0271 / FAX (619) 699-0901
LICENSE #0C36861

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BELOW. THIS CERTIFICATE OF COVERAGE DOES NOT CONSTITITUE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER

IMPORTANT: If the certificate holder is requesting a WAIVER OF SUBROGATION, the Memorandums of Coverage must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

COVERAGE AFFORDED BY: A Public Risk Innovation, Solutions, and Management

Member:
LOCAL AGENCY WORKERS' COMPENSATION EXCESS JOINT POWERS AUTHORITY: A CALIFORNIA PUBLIC AGENCY (LAWCX) MEMBER AGENCIES (AS ENDORSED)
C/O JIM ELLEDGE
1750 CREEKSIDE OAKS DRIVE, SUITE 200
SACRAMENTO, CA 95833

COVERAGE AFFORDED BY: B

COVERAGE AFFORDED BY: C

COVERAGE AFFORDED BY: D

Coverages

THIS IS TO CERTIFY THAT THE MEMORANDUMS OF COVERAGE AND POLICIES LISTED BELOW HAVE BEEN ISSUED TO THE MEMBER NAMED ABOVE FOR THE PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE COVERAGE AFFORDED BY THE MEMORANDUMS AND POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH MEMORANDUMS AND POLICIES.

CO LTR	TYPE OF COVERAGE	MEMORANDUM/ POLICY NUMBER	COVERAGE EFFECTIVE DATE	COVERAGE EXPIRATION DATE	LIABILITY LIMITS
A	EXCESS WORKERS' COMPENSATION & EMPLOYER'S LIABILITY	PRISM PE 24 EWC-32	07/01/2024	07/01/2025	WORKERS' COMPENSATION: Difference between Statutory and Member's $5,000,000 Retention

LIMITS APPLY PER OCCURRENCE FOR ALL PROGRAM MEMBERS COMBINED.

Description of Operations/Locations/Vehicles/Special Items:

AS RESPECTS EVIDENCE OF COVERAGE BETWEEN CITY OF LIVERMORE AND ALAMEDA COUNTY FOR HOMELESS HOUSING, ASSISTANCE AND PREVENTION (HHAP) PROGRAM FOR HOMELESSNESS CHALLENGES-TRI-VALLEY SHELTER PROGRAM. (MASTER CONTRACT NUMBER 902012, PROCUREMENT CONTRACT NUMBER 24822)

CITY OF LIVERMORE IS A MEMBER OF LOCAL AGENCY WORKERS' COMPENSATION EXCESS JOINT POWERS AUTHORITY: A CALIFORNIA PUBLIC AGENCY (LAWCX) MEMBER AGENCIES (AS ENDORSED)

Certificate Holder

ALAMEDA COUNTY
HEALTH CARE SERVICES AGENCY
ATTN: JONATHAN RUSSELL
1404 FRANKLIN STREET, STE 300
OAKLAND, CA 94612

Cancellation

SHOULD ANY OF THE ABOVE DESCRIBED MEMORANDUMS OF COVERAGE/POLICIES BE CANCELLED BEFORE THE EXPIRATION THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE MEMORANDUMS OF COVERAGE/POLICIES PROVISIONS.

AUTHORIZED REPRESENTATIVE

Gina Dean

Public Risk Innovation, Solutions, and Management

PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT
EXCESS WORKERS' COMPENSATION PROGRAM
2024/2025 SCHEDULE OF INSURERS
LOCAL AGENCY WORKERS' COMPENSATION EXCESS JOINT POWERS AUTHORITY: A CALIFORNIA PUBLIC AGENCY (LAWCX) MEMBER AGENCIES (AS ENDORSED)

PROVIDER	MEMORANDUM / POLICY NUMBER	LIMIT
Public Risk Innovation, Solutions, and Management	PRISM PE 24 EWC-32	Workers' Compensation: $50,000,000 each occurrence (Difference between $50,000,000 and the individual member's retention)
Liberty Mutual Fire Insurance Co.	EW2-64N-444785-014	Statutory each accident/each employee for disease excess of $50,000,000

Master Contract No. 902012
Procurement Contract No. 24822

EXHIBIT D2

COUNTY OF ALAMEDA
DEBARMENT AND SUSPENSION CERTIFICATION
(Applicable to all agreements funded in part or whole with federal funds and contracts over $25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- **Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;**
- **Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;**
- **Does not have a proposed debarment pending; and**
- **Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.**

If there are any exceptions to this certification, insert the exceptions in the following space. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

☐ **Check if continued on attached page.**

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Amendment to the Standard Services Agreement. Signing the Amendment to Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: City of Livermore

PRINCIPAL: Marianna Marysheva TITLE: City Manager

SIGNATURE: _____ DATE: _____

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.13**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing the execution of an Inter-Governmental Collaboration Agreement with the County of Alameda and Alameda County Cities and Housing Authorities for the completion of the Assessment of Fair Housing. The total agreement amount is $86,885 and the City's share of the agreement cost is approximately $2,000.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the execution an Inter-Governmental Collaboration Agreement with the County of Alameda and Alameda County Cities and Housing Authorities for the completion of the Assessment of Fair Housing. The total agreement amount is $86,885 and the City's share of the agreement cost is approximately $2,000.

SUMMARY

Every five years, the U.S. Department of Housing and Urban Development (HUD) requires jurisdictions to complete an Assessment of Fair Housing and submit a new Regional Analysis of Impediments to Fair Housing (AI) report. The AI report identifies and evaluates fair housing issues and factors contributing to fair housing impediments in all cities within Alameda County. The last report was completed in February 2020. The County, along with the other cities and housing authorities in the County, is creating a new regional AI report covering FY 2025 through 2029.

As the lead agency, Alameda County hired TDA Consulting Inc. to compose the report and facilitate the comprehensive process. Alameda County would like to enter into an Inter-Governmental Collaboration Agreement with the City of Livermore as the mechanism to fund hiring the consultant, who will be responsible for the Assessment of Fair Housing data gathering, development and completion of the AI report to meet HUD and California AB686 requirements.

DISCUSSION

Alameda County, along with the cities and housing authorities within the County, is required to prepare an Analysis of Impediments to Fair Housing (AI) in order to continue receiving funding from the U.S. Department of Housing and Urban Development (HUD) under the National Affordable Housing Act of

1990. The County is the lead agency in the development of a region-wide AI report, so there is a uniform approach in identifying the constraints and solutions to fair housing amongst all jurisdictions and housing authorities in the County.

On a regional basis, the AI report will include demographic profiles of the area. The report will also include a housing profile, impediments to fair housing, public policies and building requirements used in the approval of housing. The final section will report actions that the County and other participating members and agencies will take to address any identified impediments. The AI report will also reference the County-wide Housing Needs Assessment as well as all the Housing Elements in the County.

The current AI report was last updated in February 2020 in coordination with the City's five-year Consolidated Plan for HUD funding. In Spring 2025, the new five-year Consolidated Plan, covering FY 2025 through FY 2029, will be brought to City Council for adoption. This updated AI report will be a stand-alone portion of the Consolidated Plan submitted to HUD.

On March 15, 2024, Alameda County published a Request for Qualification (RFQ) to seek a HUD-approved consultant to prepare the regional Assessment of Fair Housing and AI report. Two qualified requests were received, reviewed and ranked by the County. TDA Consulting Inc. was rated as the top candidate and selected by the County as the consultant for this report.

The Inter-Governmental Collaboration Agreement is the mechanism for funding the hiring of the consultant, TDA Consulting Inc., who will be responsible for gathering data from each local jurisdiction in Alameda County, fair housing organizations, public housing authorities and the public. The consultant will utilize this data to develop and complete an AI report that meets HUD and State of California fair housing requirements. After completion, progress on the outcomes of programs and initiatives described in the AI report will be reported in the Consolidated Annual Progress and Evaluation Report (CAPER) submitted to HUD.

FISCAL AND ADMINISTRATIVE IMPACTS

Financing for the consultant will be shared between the County, the cities, and the housing authorities located within the County. City of Livermore’s share of the agreement will be approximately $2,000 and is eligible to be paid using the FY 2024-25 Administrative HOME Investment Partnership Program grant funds.

COMMUNITY PILLAR

1: A Safe Community that Thrives

GOAL

8: Expand and Improve Access to Human Services

ATTACHMENTS

1. Resolution
2. Exhibit A - Agreement

Prepared by: Amy Walker
Management Analyst 1

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING THE EXECUTUTION OF AN INTER-GOVERNMENTAL COLLABORATION AGREEMENT WITH THE COUNTY OF ALAMEDA AND ALAMEDA COUNTY CITIES AND HOUSING AUTHORITIES FOR THE COMPLETION OF THE ASSESSMENT OF FAIR HOUSING

Every five years, the U.S. Department of Housing and Urban Development ("HUD") requires jurisdictions to complete an Assessment of Fair Housing and submit a new Regional Analysis of Impediments to Fair Housing ("AI") report in order to continue to receive funding from HUD under the National Affordable Housing Act of 1990. The AI report identifies and evaluates fair housing issues and factors contributing to fair housing impediments in all cities within Alameda County. The last report was completed in February 2020. The County of Alameda, along with the other cities and housing authorities in the County, is creating a new regional AI report covering FY 2025-2029.

Entities are encouraged to collaborate and utilize regional approaches to address fair housing issues and complete the AI report. As a result, the County of Alameda and Alameda County cities and housing authorities desire to collaborate on this new regional AI report and enter into the proposed Inter-Governmental Collaboration Agreement. The proposed agreement designates Alameda County is the lead agency in the development of a region-wide AI report and provides for the funding and the hiring of the consultant, TDA Consulting Inc., which will be responsible for the Assessment of Fair Housing data gathering and development and completion of the AI report to meet HUD and California AB686 requirements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby:

1. Authorizes the City Manager, or her designee, to execute an Inter-Governmental Collaboration Agreement with Alameda County and Alameda County cities and housing authorities, attached hereto as Exhibit A, for the completion of the Assessment of Fair Housing and regional AI report.

2. Authorizes the City Manager, or her designee, to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution, including approving minor changes to the proposed agreement.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Molly O'Toole
Molly O'Toole
Deputy City Attorney

Exhibit A – Inter-Governmental Collaboration Agreement for the Completion of the Assessment of Fair Housing

INTER GOVERNMENTAL COLLABORATION AGREEMENT FOR THE COMPLETION OF THE ASSESSMENT OF FAIR HOUSING

THIS INTER-GOVERMENTAL COLLABORATION AGREEMENT REGARDING COMPLETION OF THE ASSESSMENT OF FAIR HOUSING ("Agreement") is dated for convenience as of _____, 2024 by and among the County of Alameda, the City of Alameda, the City of Berkeley, the City of Fremont, the City of Hayward, the City of Livermore, the City of Oakland, the City of Pleasanton, the City of San Leandro, the City of Union City, the Housing Authority of the County of Alameda, the Housing Authority of the City of Alameda, the Berkeley Housing Authority, the Housing Authority of the City of Livermore, and the Housing Authority of the City of Oakland, hereinafter referred to as the Participating County, Cities and Agencies ("PCCA") and individually as "PCCA member(s)".

W I T N E S S E T H

WHEREAS, each PCCA member recognizes that the Department of Housing and Urban Development (HUD) Affirmatively Furthering Fair Housing Final Rule ("AFFH") requires jurisdictions to submit a fair housing assessment document that requires significant administrative efforts, and that HUD encourages regional and multi-jurisdictional submissions; and

WHEREAS, the Analysis of Impediments (AI) tool, which HUD funded program participants must prepare and use to identify and evaluate fair housing issues, and factors contributing to fair housing issues in their defined geographic area; and

WHEREAS, the AFFH encourages and provides methodology for regional approaches to address fair housing issues, including collaboration across jurisdictions and public housing agencies; and

WHEREAS, all PCCA members have one or more HUD funded programs and activities that require compliance with the AFFH and recognize that the AI is a comprehensive review of their respective laws, regulations, administrative policies, procedures and practices; and

WHEREAS, the County of Alameda (the "County") will facilitate the competitive procurement and management of the consultant who will assist the PCCA with development of the AI plan and will assume the role of lead for the PCCA regional effort; and

WHEREAS, all PCCA members recognize the efficiency of coordinating efforts to complete the AI by the HUD prescribed deadline for the County; and

WHEREAS, the PCCA members have agreed to reimburse the County in an agreed upon proportionate amount to fund completion of the required meetings, plan, and submission documents; and

WHEREAS: the PCCA members agree that the participating county and cities, collectively, will fund a 65% share of the cost of the AI consultant fee and the Housing Authorities, collectively, will fund a 35% share of the total cost of the AI consultant fee.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Collaboration: The parties agree to jointly prepare a regional AI for Alameda County. Each member of the PCCA will perform the tasks outlined in Attachment A.

2. Funding: The parties agree to jointly fund the engagement of a consultant to develop a regional AI for Alameda County. Each member of the PCCA will contribute funds as described in Attachment A - "Project Consultant Fee Contribution and Scope of Work," which is incorporated herein by reference.

3. Lead Agency: The County will act as lead agency in the development and completion of the regional AI, including the procurement and contracting for the AI consultant. As such, the County will, prepare all documents and undertake responsibilities set forth in Attachment A, which is incorporated herein by reference, that are required for completion of the AI. The County reserves the right to conduct the procurement and contracting process for all AI consultant pursuant to the County's policies.

4. PCCA Responsibilities: Each PCCA member will be responsible for providing information about its respective policies and practices and other information as required by the consultant to complete the AI. The County will provide the information to the consultant and provide the information for the Unincorporated County.

5. Remittance: The PCCA members will each remit their respective AI Consultant Fee contributions to the County upon receipt of an invoice(s) based on the approved project budget (Attachment A).

6. Records Retention: The County will keep all documents relating to the AI readily accessible to the other PCCA members for at least ten years from the completion of the project.

7. Indemnification: Each PCCA member shall defend, hold harmless and indemnify each and every other PCCA member, their respective, elected officials, appointed officials, commissioners, members, officers, employees, and agents from any and all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature, or description directly or indirectly arising out of or connected with the PCCA member's performance under this Agreement, and any of that PCCA member's operations or activities related thereto, excluding the sole willful misconduct or gross negligence of the person or entity seeking to be defended, indemnified or held harmless.

8. Amendment: This Agreement may be altered only by written consent of each of the signatory parties.

9. Term: The term of this Agreement shall begin on June 1, 2024 and end on May 31, 2025, and may be extended or amended based on mutual agreement.

    a) This Agreement will automatically terminate if (i) the AI is no longer required by HUD and/or the terms of the Agreement have been satisfied, and (ii) all outstanding invoices have been paid.

10. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed an original, and each of which shall constitute together one instrument. The counterparts will be binding on each of the parties, even though the various parties may have executed separate counterparts.

COUNTY OF ALAMEDA, a political subdivision of the State of California

By: _____ Date: _____

Sandi Rivera, CDA Director
Community Development Agency
224 West Winton Avenue, Room 110
Hayward CA 94544-1215

Approved as to form:
Donna R. Ziegler, County Counsel

By: _____

Caitlyn M. Gulyas
Deputy County Counsel

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF ALAMEDA, a Municipal Corporation

By: _____ Date: _____
Jennifer Ott, City Manager

Approved as to Form:

_____
Len Aslanian, Assistant City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF BERKELEY, a Municipal Corporation

By: _____ Date: _____
Dee Williams-Ridley, City Manager

Attest: _____
Mark Numainville, City Clerk

Approved as to Form:

_____
Farimah Brown, City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF FREMONT, a Municipal Corporation

BY: _____ DATE: _____
Karena Shackelford, City Manager

Approved as to Form:

_____
Rafael E. Alvarado, Jr., City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF HAYWARD, a Municipal Corporation

By: _____ Date: _____
Kelly McAdoo, City Manager

Attest: _____
Miriam Lens, City Clerk

Approved as to Form:

By: _____
Michael S. Lawson, City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF LIVERMORE, a Municipal Corporation

BY: _____ DATE: _____
Marianna Marysheva, City Manager

Approved as to Form:

_____
Molly O'Toole, Deputy City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF OAKLAND, a Municipal Corporation

By: _____ Date: _____

Jestin D. Johnson, City Administrator

Approved as to Form:

_____

Barbara J. Parker, City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF PLEASANTON, a Municipal Corporation

BY: _____ DATE: _____

Gerry Beaudin, City Manager

Approved as to Form:

_____

Daniel G. Sodergren, City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF SAN LEANDRO, a Municipal Corporation

By: _____ Date: _____
Frances M. Robustelli, City Manager

Attest:

_____
Kelly B. Clancy, City Clerk

Approved as to Form:

_____
Richard Pio Roda, City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

CITY OF UNION CITY, a Municipal Corporation

By: _____ Date: _____
Joan Malloy, City Manager

Approve as to Form:

_____
Kristopher Kokotaylo, City Attorney

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

Housing Authority of the County of Alameda

By: _____ Date: _____

Laura Broussard Rosen, Executive Director

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

Housing Authority of the City of Alameda

By: _____ Date: _____

Vanessa Cooper, Executive Director

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

Housing Authority of the City of Berkeley

BY: _____ DATE: _____

James Williams, Executive Director

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

Housing Authority of the City of Livermore

BY: _____ DATE: _____

Sarah Ramler, Executive Director

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

Housing Authority of the City of Oakland

BY: _____ DATE: _____

Patricia Wells, Executive Director

Approve as to Form:

_____

Jhaila Brown, General Counsel

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

ATTACHMENT A

Alameda County Participating County, Cities and Agencies (PCCA)
Inter-Governmental Collaboration Agreement for the
Completion of the Analysis of Impediments to Fair Housing Choice

PROJECT CONSULTANT FEE CONTRIBUTION
AND
SCOPE OF WORK

1. Project Funding Sources

Contributions based upon a shared contribution of 65% of costs paid between the County and City Jurisdictions collectively, and 35% of costs paid between the Housing Authorities collectively.

- The County and City Jurisdiction's 65% contribution will be prorated among jurisdictions, resulting in the percentage indicated in Table A below, which is based upon the respective Community Development Block Grant total allocation and HOME funds for the HOME Consortium portion.

- Each Housing Authority's 35% contribution will be prorated among jurisdictions based upon a base fee of $2,000 each, with any additional payment of funds prorated based on the percentage listed in Table B below, which is based upon HUD Annual Contributions Contract units.

Table A **County and Cities**	
County of Alameda • Urban County Participating Cities • HOME Consortium	 8.57% 11.21%
City of Alameda	5.48%
City of Berkeley	12.70%
City of Fremont	5.93%
City of Hayward	7.26%
City of Livermore	3.08%
City of Oakland	36.17%
City of Pleasanton	3.08%
City of San Leandro	3.45%
City of Union City	3.08%
Funds Available County and Cities	100% of 65%

Table B Housing Authorities (Agencies)	
County of Alameda HA	26%
City of Alameda HA	8%
Berkeley HA	8%
Livermore HA	3%
Oakland HA	55%
Funds Available Housing Authorities	100% of 35%
Total Contributions	**100%**

I. Project Budget

AI Consultant $86,885

II. Roles and Responsibilities

Lead Agency

As the Lead Agency, the County of Alameda's tasks include but are not limited to:

- Provide day-to-day oversight and planning of activities to be undertaken throughout the AI plan process.
- Prepare a draft Request for Proposals (RFP) to select the AI Consultant. Solicit comments from the PCCA members regarding the scope of the RFP.
- Prepare and issue the final RFP, taking into consideration input received from the PCCA members.
- Receive proposals and coordinate the rating and ranking process.
- Contract with the selected AI consultant.
- Receive, review and pay invoices submitted by the AI consultant.
- Coordinate requests for information submitted by the AI consultant to the PCCA members.
- The County reserves the right to control the manner in which these tasks are performed, including but not limited to withdraw or modify the RFP and to negotiate, approve or disapprove any proposed contract, and to modify or terminate a contract at its discretion.

PCCA Members

- Provide input on the preparation of the RFP for the AI consultant.
- Participate in the AI consultant selection process through the input to the working group.
- Provide respective jurisdictional information to the AI consultant, HUD and other PCCA members as needed.

- Promote, market and host public workshops and any other forms of outreach mutually agreed upon by the PCCA members.
- Respond to written and oral comments in a timely manner as applicable.
- Participate in meetings and conference calls throughout the AI Plan process.
- Develop goals and priorities for their respective jurisdiction to be included in the AI Plan.
- Participate in joint analysis and joint goals to be included in the AI Plan.
- Review AI Plan drafts and return comments in accordance with timeline.
- Obtain respective board/commission approval of the AI Plan.
- Pay invoices submitted by the Lead Agency within 30 days of receipt.

III. AI Consultant Scope of Work

The AI Consultant's tasks will include but are not limited to:

- Completion of all final required components and deliverables of the Analysis of Impediments to Fair Housing Choice by the Contract deadline including public meetings, collection and analysis of public input, data analysis, form completion and report completion as required in the Alameda County Consultant Services Contract Scope of Work.
- Development of Assessment of Fair Housing plan and milestones for the PCCA members by June 30, 2024.
- Consult with PCCA representatives at agreed upon intervals and in the agreed upon method.
- Provide one printed copy and electronic version (Word or pdf) to each PCCA.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.14**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Resolution authorizing the submission of an application to the State of California Housing and Community Development Department's Local Housing Trust Fund (LHTF) Program in an amount not-to-exceed $5,000,000 for development phase 2 of the Pacific Avenue Senior Apartments, execution of an agreement with the State of California, and certification for expenditure of funds.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing:

1. If City (the "Applicant) receives an award of LHTF funds from the Department pursuant to the Notice of Funding Availability ("NOFA") dated July 9, 2024 under the LHTF Program, 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");
2. The City of Livermore Affordable Housing Trust Fund to act as the manager or trustee (as applicable) in connection with the Department's funds to Eligible Projects pursuant to the NOFA in an amount not to exceed $5,000,000 (the "LHTF Award"), including administrative costs, pursuant to Section 105(b) of the LHTF Program Guidelines;
3. Agreement to match on a dollar-for-dollar basis the LHTF Award pursuant to Guidelines Section 104. Applicant hereby agrees to utilize matching funds 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);
4. Pursuant to Exhibit A of the Resolution, the LHTF funds will be expended only for Eligible Projects and consistent with all program requirements.
5. Applicant shall be subject to the terms and conditions as specified in the Standard Agreement, H&S Section 50842.2 et seq. and LHTF Program Guidelines;
6. The City Manager, or her 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,
7. The City Manager, or her designee, to issue a Letter(s) of Intent, as defined by the State, to Eligible Projects to provide funding if awarded by the State.

SUMMARY

The State of California Housing and Community Development Department released a Notice of Funding Availability (NOFA) on July 9, 2024, for approximately $53 million for the Local Housing Trust Fund (LHTF) Program. The LHTF Program provides funding through a competitive process to support the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower income households. To qualify for the funds, awarded projects must provide matching local or regional housing trust funds in an amount equal to the LHTF request. One LHTF funding requirement is the adoption of a resolution authorizing the City's application for the LHTF Funds with a description of the eligible projects. Staff recommends the City Council authorize the City to submit an application to the State for an amount not to exceed $5,000,000 to be used for permanent financing for development of phase 2 of the Pacific Avenue Senior Apartments, a 100% affordable, multifamily rental project. If approved, the City will use its contribution of land for the Pacific Avenue Senior Apartments project and other funding in the City's Housing Trust fund as matching funds for the grant.

DISCUSSION

On January 25, 1999, the City of Livermore established the Affordable Housing Trust Fund to assist in increasing the City's supply of affordable housing. On November 6, 2018, California voters adopted the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1), which was authorized by Senate Bill 3 (Chapter 365, Statues 2017). The proposition authorized $4 billion in general obligation bonds for housing-related programs and designated $300 million of the Bond proceeds for the Local Housing Trust Fund (LHTF) Program.

On July 9, 2024, the State of California's Department of Housing and Community Development issued a Notice of Funding Availability (NOFA) for the LHTF Program utilizing these funds. The LHTF Program provides dollar-for-dollar matching grants to local housing trust funds to support the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower income households. Eligible projects include multi-family housing projects, emergency shelters, transitional housing, permanent supportive housing, accessory dwelling units, rehabilitation projects, and affordable homebuyer projects.

The City applied for and received an allocation of $5,000,000 from the 2022 LHTF NOFA for the 140-unit Pacific Avenue Senior Apartments, to be developed by Satellite Affordable Housing Associates (SAHA) and Interfaith Housing (IFH). The project is located on land that is owned by the City of Livermore. The project was entitled in November 2021, and the development team has assembled all but the necessary tax credit financing to construct the first 80-unit phase. The financing plan anticipates using the City's full $5,000,000 award of 2022 LHTF funds for phase 1 in order to make the project competitive for tax credits. Staff recommends the City apply to the State for additional LHTF funding for the future 60-unit phase 2 of the project which would be matched dollar-for-dollar using the appraised value of the land provided by the City or additional funds from the City's housing trust up to an amount not-to-exceed the $5,000,000 grant maximum. If funds are received from the LHTF program, this could offset the need for additional funding for phase 2 from the City. A financing plan for phase 2 would be developed following the completion of financing for phase 1.

LHTF application requirements include a City Council Resolution approving the funding request and

authorizing the City Manager to enter into a Standard Agreement with the State of California for use of the funds if an application is awarded. Staff also recommends City Council direct staff to issue the necessary Letter of Intent to fund the Pacific Avenue Senior Apartments project with any LHTF funds awarded by the State to demonstrate a commitment of the funds. The City must submit a completed application electronically through the Housing and Community Development Department's website by September 17, 2024. If successful, the City would be notified in December and staff would return to City Council with recommendations for specific appropriations of funding to the project.

FISCAL AND ADMINISTRATIVE IMPACTS

The LHTF Program requires the funding request be matched by local housing trust funds on a dollar-for-dollar basis from qualified dedicated sources. Dedicated sources of funds include taxes, fees and loan repayments, public or private contributions, land donations, and grants. The City of Livermore would satisfy this requirement by using Affordable Housing Trust Funds (F611) as well as the appraised value of contribution of land for the Pacific Avenue project, which exceeds $8,000,000.

COMMUNITY PILLAR

1: A Safe Community that Thrives

GOAL

7: Expand and preserve the supply of affordable housing opportunities.

ATTACHMENTS

1. Resolution
2. Exhibit A - Summary of Local Housing Trust Fund Projects

Prepared by: Fran Earl
Housing and Human Services Manager

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION TO THE STATE OF CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT'S LOCAL HOUSING TRUST FUND (LHTF) PROGRAM IN AN AMOUNT NOT-TO-EXCEED $5,000,000, EXECUTION OF THE STANDARD AGREEMENT WITH THE STATE OF CALIFORNIA, AND CERTIFICATION FOR EXPENDITURE OF FUNDS

The State of California (the "State"), Department of Housing and Community Development ("Department") is authorized to provide up to $53 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 (HSC) section 50842.2 et seq. (Chapter 365, Statutes of 2017 (SB 3)) ("Program").

The Department issued a Notice of Funding Availability ("NOFA") dated July 9, 2024, under the LHTF Program.

The City of Livermore (the "Applicant") Affordable Housing Trust Fund is an eligible Local Housing Trust Fund applying to the Program to administer one or more eligible activities using Program Funds.

The Department may approve funding allocations for the LHTF Program, subject to the terms and conditions of HSC Section 50842.2 et seq., the LHTF Program Guidelines ("Guidelines") and Program requirements, NOFA, the LHTF Standard Agreement and other related contracts between the Department and LHTF award recipients.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore hereby:

1. Represents and certifies that, if the City of Livermore receives an award of LHTF funds from the Department pursuant to the above referenced LHTF NOFA, 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 it may have with the Department ("Eligible Project").

2. Authorizes the City of Livermore Affordable Housing Trust Fund to act as the manager or trustee (as applicable) 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"), including administrative costs, pursuant to Section 105(b) of the Guidelines.

3. Agrees to match on a dollar-for-dollar basis the LHTF Award pursuant to Guidelines Section 104 and agrees to utilize matching funds 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).

4. Agrees that pursuant to Exhibit A, and the City of Livermore's certification in this resolution, the LHTF funds will be expended only for Eligible Projects and consistent with all program requirements.

5. Agrees that the City shall be subject to the terms and conditions as specified in the Standard Agreement, HSC Section 50842.2 et seq. and LHTF Program Guidelines.

6. Authorizes the City Manager, or her designee, 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 the City of Livermore, as the Department may deem appropriate.

7. Authorizes the City Manager, or her designee, to issue a Letter(s) of Intent, as defined by the State, to provide funding to Eligible Projects if awarded by the State.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Summary of Local Housing Trust Fund Projects

LIVERMORE
CALIFORNIA

SUMMARY OF LOCAL HOUSING TRUST FUND PROJECTS

Program & Matching Fund Activity	Percent of LHTF Funds Requested	Eligible Projects	Total Units	Area Median Income Levels	City Match Sources
Construction and/or permanent financing loans for affordable rental housing projects	100%	Pacific Senior Apartments	140	Project units will serve households at the 30%, 50% and 60% AMI levels	Affordable Housing Trust Funds & Land Donation

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.15**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Resolution authorizing the issuance of a purchase order for three replacement Chevrolet Police Patrol Vehicles from Winner Chevrolet in an amount not-to-exceed $220,707.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing issuance of a purchase order to Winner Chevrolet in Sacramento, California for the purchase of three replacement Chevrolet Police Patrol Vehicles under Statewide Contract #1-22-23-23D for a not-to-exceed amount of $220,707.

SUMMARY

Based on the City of Livermore's Fleet Policy and the 25-year Fleet Replacement Plan, it is time to replace three existing police patrol vehicles. Staff has determined that the unit that best meets the needs of the Police Department is the 2024 Chevrolet Police Patrol Vehicle, and Winner Chevrolet in Sacramento, California is the local statewide contractor for Chevrolet Enforcement and Police Pursuit vehicles.

DISCUSSION

The Police Department currently operates 38 marked patrol cars for community protection and emergency services. The City's Fleet Policy recommends police patrol units be evaluated for replacement based on the following factors:

1. In service for four years or more.
2. Odometer reading greater than 85,000 miles.
3. Annual maintenance and operational costs.
4. Overall condition of the vehicle.

Three patrol vehicles were identified for replacement during the budget preparation process for FY 2024-25. Three 2016 Ford Utilities were recommended for replacement due to the age, high mileage, increased operational costs, and the poor condition of the vehicles. If these patrol vehicles are not replaced, the maintenance and operating costs, downtime, and out-of-service frequency will continue to

increase, and it will have an adverse effect on the City's ability to respond to emergency and routine response calls. Replacing these three vehicles with the Chevrolet Police Patrol Vehicles will better fit the equipment and gear the sergeants are required to have.

Under Livermore Municipal Code Section 2.68.360 of the City's Contract and Purchase Ordinance permits the purchases of certain good and services through qualifying cooperative purchasing programs. Livermore Municipal Code section 2.68.370 permits the City to participate in cooperative purchasing programs if the underlying purchase was made using a quotation or bid procedure at least as restrictive as the City's.

Staff recommends purchasing these replacement vehicles utilizing Statewide Contract 1-22-23-23D. The Statewide Contract bid procedure for the replacement vehicles meets the City's municipal code requirement, and therefore, can be awarded to Winner Chevrolet. The Department of General Services (DGS) Procurement Division (PD) sets state procurement policies and provides purchasing services. It delegates purchasing authority; certifies small and/or disabled veteran businesses to do business with the state; sponsors the Small Business Council; participates in the Disabled Veterans Business Enterprise Council; and provides innovative purchasing methods that save taxpayers' dollars, integrating quality solutions to meet customers' needs. The State's Statewide Contracts for Fleet Vehicles provide Fleet Vehicles at contracted pricing to the State of California and local governmental agencies. The purchase through Statewide Contract 1-22-23-23D will expedite the delivery of these replacement vehicles.

FISCAL AND ADMINISTRATIVE IMPACTS

The replacement purchase of these three vehicles is budgeted in the Fleet Services Internal Service Fund (610) for FY 2024-25 and is identified in the Fleet 25-Year replacement plan.

COMMUNITY PILLAR

1: A City That Works

GOAL

14: Develop, operate, and maintain the City's infrastructure.

ATTACHMENTS

1. Winner Chevrolet Statewide Contract
2. Winner Chevrolet Quote
3. Resolution

Prepared by: Scott Kooreman
Public Works Supervisor

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

ATTACHMENT 1

Department of General Services
Procurement Division
707 Third Street, 2nd Floor
West Sacramento, CA 95605-2811

State of California

STATEWIDE CONTRACT

USER INSTRUCTIONS

MANDATORY

Supplement 25

(Incorporates Supplements 1 – 25)

ISSUE AND EFFECTIVE DATE:	***7/22/2024***
CONTRACT NUMBER:	1-22-23-23 B through I
DESCRIPTION:	Fleet Vehicles – Vans & SUVs
CONTRACTOR(S):	Ocean Honda (1-22-23-23B) Freeway Toyota (1-22-23-23C) Winner Chevrolet (1-22-23-23D) Elk Grove Auto (1-22-23-23E) Downtown Ford (1-22-23-23F) Watsonville Fleet Group (1-22-23-23G) US Fleet Source (1-22-23-23H) CA Car Group (1-22-23-23I)
CONTRACT TERM:	05/01/2022 through 04/30/2026 B-F & H-I 05/01/2022 through 04/30/2025 G
STATE CONTRACT ADMINISTRATOR:	Frank Martin 279-946-8035 Frank.Martin@dgs.ca.gov

The contract user instructions, products, and pricing are included herein. All purchase documents issued under this contract incorporate the contract terms and applicable California General Provisions:

Non-IT General Provisions (rev 11/19/2021)

Cal eProcure link: www.caleprocure.ca.gov

STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES
PROCUREMENT DIVISION

Contract (Mandatory) 1-22-23-23 B-I
Contract User Instructions, ***Supplement 25***

All changes to most recent Supplement are in *bold red italic*. Additions are enclosed in asterisks; deletions are enclosed in brackets.

SUMMARY OF CHANGES

Supplement Number	Description/Articles	Supplement Date
25	➢ ***Added Section 30 – Vetted Forms/Certifications. ***	***7/22/2024***
24	➢ Attachment A – Contract Pricing – Supplement 22 has been replaced with Attachment A – Contract Pricing – Supplement 24.	07/05/2024
23	➢ Cover Page: Extension of Contracts 23-23B, 23-23C, 23-23D,23-23E, 23-23F, 23-23H, and 23-23I. ➢ Articles 8, 12, 22, and 33: updated language. ➢ Attachment D – Vehicle Specifications Supplement 1: was replaced with Attachment D – Vehicle Specifications Supplement 23.	06/11/2024
22	➢ Termination of Contract 1-22-23-23A. ➢ Cover Page and Articles 1, 8, 12, 22, 25, 26, and 33: updated language. ➢ Attachment A – Contract Pricing – Supplement 21: replaced with Attachment A – Contract Pricing – Supplement 22.	04/19/2024
21	➢ Attachment A – Contract Pricing – Supplement 20 has been replaced with Attachment A – Contract Pricing – Supplement 21.	04/05/2024
20	➢ Attachment A – Contract Pricing – Supplement 19 has been replaced with Attachment A – Contract Pricing – Supplement 20.	02/29/2024
19	➢ Attachment A – Contract Pricing – Supplement 18 has been replaced with Attachment A – Contract Pricing – Supplement 19.	01/12/2024

18	➢ *Attachment A – Contract Pricing – Supplement 17 has been replaced with Attachment A – Contract Pricing – Supplement 18 due to price correction for previous supplement.	01/04/2024
17	➢ Attachment A – Contract Pricing – Supplement 15 has been replaced with Attachment A – Contract Pricing – Supplement 17.	12/22/2023
16	➢ Lithia Nissan contact information updated. ➢ Downtown Ford contact information updated.	12/12/2023
15	➢ Attachment A – Contract Pricing – Supplement 14 has been replaced with Attachment A – Contract Pricing – Supplement 15	11/17/2023
14	➢ Attachment A – Contract Pricing – Supplement 13 has been replaced with Attachment A – Contract Pricing – Supplement 14	11/15/2023
13	➢ Attachment A – Contract Pricing – Supplement 12 has been replaced with Attachment A – Contract Pricing – Supplement 13	10/31/2023
12	➢ Attachment A – Contract Pricing – Supplement 11 has been replaced with Attachment A – Contract Pricing – Supplement 12	09/21/2023
11	➢ Attachment A – Contract Pricing – Supplement 10 has been replaced with Attachment A – Contract Pricing – Supplement 11	8/31/2023
10	➢ Attachment A – Contract Pricing – Supplement 8 has been replaced with Attachment A – Contract Pricing – Supplement 10.	8/24/2023
9	➢ Update State Contract Administrator information.	08/04/2023

8	➢ Attachment A – Contract Pricing – Supplement 7 has been replaced with Attachment A – Contract Pricing – Supplement 8	07/28/2023
7	➢ Attachment A – Contract Pricing – Supplement 6 has been replaced with Attachment A – Contract Pricing – Supplement 7 ➢ Downtown Ford's email address has been updated	06/16/2023
6	➢ Attachment A – Contract Pricing – Supplement 5 has been replaced with Attachment A – Contract Pricing – Supplement 6	01/23/2023
5	➢ Attachment A – Contract Pricing – Supplement 4 has been replaced with Attachment A – Contract Pricing – Supplement 5	12/06/2022
4	➢ Attachment A – Contract Pricing – Supplement 3 has been replaced with Attachment A – Contract Pricing – Supplement 4	11/04/2022
3	➢ Attachment A – Contract Pricing – Supplement 2 has been replaced with Attachment A – Contract Pricing – Supplement 3 ➢ Contact Information for Downtown Ford has been updated	09/19/2022
2	➢ Attachment A – Contract Pricing – Supplement 1 has been replaced with Attachment A – Contract Pricing – Supplement 2	08/16/2022
1	➢ Attachment A – Contract Pricing has been replaced with Attachment A – Contract Pricing – Supplement 1 ➢ Attachment D – Vehicle Specifications has been added ➢ Article 25 – Payments, language has been modified	05/26/2022
N/A	Original Contract Posted	05/01/2022

All other terms and conditions remain the same.

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Contract (Mandatory) 1-22-23-23 B-I
Contract User Instructions, ***Supplement 25***

1. SCOPE

The State's contracts provide Fleet Vehicles - Vans & SUVs at contracted pricing to the State of California and local governmental agencies in accordance with the requirements of Contract # 1-22-23-23 B – I. The contractors shall supply the entire portfolio of products as identified in the contract and will be the primary point of contact for data collection, reporting, and distribution of Fleet Vehicles - Vans & SUVs to the State.

The contract term is for three (3) years with an option to extend the contract for two (2) additional one (1) year periods or portion thereof. The terms, conditions, and prices for the contract extension option shall be by mutual agreement between the contractor and the State. If a mutual agreement cannot be met the contract may be terminated at the end of the current contract term.

2. CONTRACT USAGE/RULES

A. State Departments

- The use of this contract is mandatory for State of California departments. State Departments may purchase any vehicle that is awarded to each line item. This contract does not include ranking.
- State departments must adhere to all applicable State laws, regulations, policies, best practices, and purchasing authority requirements, e.g. California Codes, Code of Regulations, State Administrative Manual, Management Memos, and State Contracting Manual Volume 2 and SCM-F as applicable.
- Prior to placing orders against this contract, State departments must have been granted non-IT purchasing authority by the Department of General Services, Procurement Division (DGS-PD) for the use of this statewide contract. State departments that have not been granted purchasing authority by DGS-PD for the use of the State's statewide contracts may contact DGS-PD's Purchasing Authority Management Section by e-mail at pams@dgs.ca.gov.
- Departments must have a Department of General Services (DGS) agency billing code prior to placing orders against this contract. Ordering departments may contact their Purchasing Authority contact or their department's fiscal office to obtain this information.

B. Local Governmental Agencies

- Local governmental agency use of this contract is optional.
- Local government agencies are defined as "any city, county, city and county, district or other governmental body or corporation", per Public Contract Code Chapter 2, Section 10298 (b), empowered to expend public funds for the acquisition of products; this includes the California State Universities (CSU) and University of California (UC) systems, K-12 schools and community colleges. While the State makes this contract available to local governmental agencies, each local

governmental agency should determine whether this contract is consistent with its procurement policies and regulations.

- Local governmental agencies shall have the same rights and privileges as the State under the terms of this contract. Any agencies desiring to participate shall be required to adhere to the same responsibilities as do State agencies and have no authority to amend, modify or change any condition of the contract.

- A DGS issued billing code is not required for local governmental agencies to place orders against this contract.

C. Unless otherwise specified within this document, the term "ordering agencies" will refer to all State departments and/or local governmental agencies eligible to utilize this contract. Ordering and/or usage instructions exclusive to State departments or local governmental agencies shall be identified within each article.

3. DGS ADMINISTRATIVE FEES

A. State Departments

The DGS will bill each State department an administrative fee for use of this statewide contract. The administrative fee should NOT be included in the order total, nor remitted before an invoice is received from DGS.

Current fees are available online in the Price Book & Directory of Services (https://www.dgs.ca.gov/OFS/Price-Book) (go to Price Book Download and click on Purchasing under Procurement Division).

B. Local Governmental Agencies

For all local government agency transactions issued against the contract, the Contractor is required to remit the DGS-PD an Incentive Fee of an amount equal to 1.25% of the total purchase order amount excluding taxes and freight. This Incentive Fee shall not be included in the agency's purchase price, nor invoiced or charged to the purchasing entity. All prices quoted to local governmental agency customers shall reflect State contract pricing, including any and all applicable discounts, and shall include no other add-on fees.

4. SB/DVBE OFF-RAMP PROVISION

There is no SB/DVBE off ramp associated with this contract.

5. PROBLEM RESOLUTION/SUPPLIER PERFORMANCE

Ordering agencies and/or Contractor shall inform the State Contract Administrator of any technical or contractual difficulties encountered during contract performance in a timely manner. This includes and is not limited to informal disputes, supplier performance, outstanding deliveries, etc. The ordering agency should include all relevant information and/or documentation (e.g., purchase documents).

6. CONTRACT ITEMS

Contract vehicles and pricing are listed on Attachment A, Contract Pricing. All prices listed shall be fixed as the maximum cost for the contract period unless a price increase is granted.

Each line item description on Attachment A, Contract Pricing, provides a description of the minimum requirements that each vehicle in that line item has met or exceeded.

A Maintenance Plan is offered on all light duty vehicles less than 8500 lbs Gross Vehicle Weight Rating (GVWR). Maintenance Plan pricing is listed on Attachment A, Contract Pricing. The purchase of the Maintenance Plan is optional. See Article 29, Maintenance Plan for more detailed information.

Price Increases

Price increases may be requested with each model year change and will be posted on a quarterly basis.

Quarterly Increases shall be processed on the following calendar days:

- July 1st
- October 1st
- January 1st
- April 1st

Contractors are requested to price protect the contracted price for the duration between the price increase request and the time the increase is processed. If the Contractor is unable to honor the price protection, the Contractor's vehicle(s) will be unavailable for ordering until the price increases have been evaluated and approved.

Multiple Award

Some line items may have multiple vehicles awarded with different make and models available. State Departments may choose any vehicle identified in the subject line item. There is no vehicle ranking associated with this contract.

Sales Tax

The sales tax rate applied should be based on the rate of the "Bill To" address listed on the Purchase Order.

Options

All factory options shall be available and priced at Contractor cost plus up to 10% for an addition or Contractor cost minus up to 10% for a deletion in accordance with the manufacturer's current model year price list. Types of equipment changes which might be made include, but are not limited, to the following:

- Add trailer tow package
- Add Bluetooth
- Add parking sensors
- Delete pick up box (bed)

In no case shall options be included or deleted in such a manner as to cause the vehicle to conflict with any other line item on any other vehicle contract.

The Contractor shall provide ordering agencies a copy of the current model year factory price sheet with requested options, within ten calendar days of request.

Third-party upfitting (e.g utility body) may be requested by ordering agencies, however, this service is non-mandatory. When applicable, third-party upfits shall be subject to the same pricing provisions as factory options.

Note: Vehicles with added or deleted options MUST continue to meet the appropriate minimum specification.

Tire Fee

Purchase orders MUST include the State mandated $1.75 per tire fee.

Document Processing Charge

In accordance with the California Vehicle Code Section 4456.5, a Contractor may charge the ordering agency a document processing charge for the preparation and processing of documents, disclosures, titling, registration, and information security obligations imposed by state and federal law. The document processing charge shall not exceed $85 per vehicle purchased.

A Contractor may charge the ordering agency an electronic filing fee, which does not exceed the actual amount the Contractor is charged by a first-line service provider. The electronic filing fee shall not exceed $30 per vehicle purchased.

7. SPECIFICATIONS

All products must conform to the attached State of California Bid Specification Number 2310-4181 dated 08/16/2021 (Attachment B).

Vehicle color shall be a solar reflective color (white, silver metallic, or gold metallic) per SAM Section 3620.1 (exceptions are listed in the same manual section).

8. CUSTOMER SERVICE

The Contractor shall provide office and personnel resources for responding to inquiries, including telephone and email coverage weekdays during the hours of 8:00 a.m. - 5:00 p.m., PT.

The customer service unit shall be staffed with individuals that:

- Are trained in the requirements of this contract
- Have the authority to take administrative action to correct problems that may occur

The Contractor's customer service unit shall respond to all customer inquiries within two (2) business days of initial contact.

Dealer	Contract #	Contact	Phone	Email
Ocean Honda	1-22-23-23B	Pat Ireland	(559) 707-5735	patireland1962@yahoo.com
Freeway Toyota of Hanford	1-22-23-23C	Pat Ireland	(559) 707-5735	patireland1962@yahoo.com
Winner Chevrolet	1-22-23-23D	Jerry Powers	(916) 426-5752	jpowers@lasherauto.com
Elk Grove Auto	1-22-23-23E	Jerry Powers	(916) 426-5752	jpowers@lasherauto.com
Downtown Ford Sales	1-22-23-23F	Sandra Scott	(916) 252-6260	sandrascott@fordsacramento.com
Watsonville Fleet Group	1-22-23-23G	Yesenia Covarrubias	(626) 457-5590	yesenia@watsonvillefleetgroup.com
US Fleet Source	1-22-23-23H	Lisa Molino	(626) 344-4285	Info@usfleetsource.com
CA Car Group	1-22-23-23I	Richard M. Slade	(925) 560-4465	RichardMS@cacargroup.com

Note: Ordering agencies are encouraged to have one point of contact for inquiries, quotes, and orders whenever possible. Multiple calls and emails from various requestors for the same information can slow customer service response times.

9. PRODUCT SUBSTITUTIONS

Under no circumstance is the Contractor permitted to make substitutions with non-contract/unauthorized vehicles without approval of the DGS Contract Administrator (CA).

10. PURCHASE EXECUTION

A. State Departments

1) Std. 65 Purchase Documents

State departments not transacting in FI$CAL must use the Purchasing Authority Purchase Order (Std. 65) for purchase execution. An electronic version of the Std. 65 is available at the Office of State Publishing web site: https://www.dgsapps.dgs.ca.gov/osp/StatewideFormsWeb/Forms.aspx (select Standard Forms).

All Purchasing Authority Purchase Orders (Std. 65) must contain the following:

- Agency Order Number (Purchase Order Number)
- Ordering Agency Name
- Agency Billing Code
- Purchasing Authority Number
- Leveraged Procurement Number (Contract Number)
- Supplier Information (Contact Name, Address, Phone Number, Fax Number, E-mail)
- Line Item number
- Quantity
- Unit of Measure
- Commodity Code Number
- Product Description
- Unit Price
- Extension Price
- Office of Fleet and Asset Management (OFAM) Approval Stamp (State departments only)

2) FI$CAL Purchase Documents

State departments transacting in FI$CAL will follow the FI$CAL procurement and contracting procedures.

3) Blanket Orders

The use of blanket orders against this statewide contract is not allowed.

B. Local Governmental Agencies

Local governmental agencies may use their own purchase document for purchase execution. The purchase documents must include the same data elements as listed above (Exception: Purchasing Authority Number is used by State departments only).

11. MINIMUM ORDER

The minimum order shall be one (1) vehicle.

12. ORDERING PROCEDURE

A. Ordering Methods:

Ordering agencies are to submit appropriate purchase documents directly to the contractor(s) via one of the following ordering methods:

- U.S. Mail
- Facsimile
- Email

The contractor's Order Placement Information is as follows:

ORDER PLACEMENT INFORMATION			
Contract # 1-22-23-23B	U.S. Mail: Ocean Honda 3801 Soquel Dr Soquel, CA 95073 Attn: Pat Ireland	Facsimile: (559) 961-4601	Email: patireland1962@yahoo.com
Contract # 1-22-23-23C	U.S. Mail: Freeway Toyota 1835 Glendale Avenue Hanford, CA 93230 Attn: Pat Ireland	Facsimile: (559) 961-4601	Email: patireland1962@yahoo.com
Contract # 1-22-23-23D	U.S. Mail: Winner Chevrolet 8575 Laguna Grove Drive Elk Grove, CA 95757 Attn: Jerry Powers	Facsimile: (916) 421-0149	Email: jpowers@lasherauto.com
Contract # 1-22-23-23E	U.S. Mail: Elk Grove Auto Group 8575 Laguna Grove Drive Elk Grove, CA 95757 Attn: Jerry Powers	Facsimile: (916) 421-0149	Email: jpowers@lasherauto.com

Contract # 1-22-23-23F	U.S. Mail: Downtown Ford Sales 525 N 16th St Sacramento, CA 95811 Attn: Sandra Scott	Facsimile: N/A	Email: sandrascott@fordsacramento.com
Contract # 1-22-23-23G	U.S. Mail: Watsonville Fleet Group 1601 W. Main Street Alhambra, CA 91801 Attn: Yesenia Covarrubias	Facsimile: (626) 457-5593	Email: yesenia@watsonvillefleetgroup.com
Contract # 1-22-23-23H	U.S. Mail: US Fleet Source 979 S. Village Oaks Drive Covina, Ca 91724	Facsimile: (626) 228-3077	Email: info@usfleetsource.com
Contract # 1-22-23-23I	U.S. Mail: CA Car Group 4200 John Monego Ct Dublin, CA 94568 Attn: Richard M. Slade	Facsimile: N/A	Email: RichardMS@cacargroup.com

When using any of the ordering methods specified above, all State departments must conform to proper State procedures.

13. ORDER ACCEPTANCE

The Contractor shall accept orders from any State department or local governmental agency. The Contractor shall not accept purchase documents for this contract that:

- Are incomplete;
- Are submitted without OFAM approval stamp
- Contain non-contract items; or
- Contain non-contract terms and conditions.

The Contractor must not refuse to accept orders from any State department or local governmental agency for any other reason without written authorization from the CA.

14. ORDER ACKNOWLEDMENT

The Contractor will provide the ordering agencies with an order receipt acknowledgment via e-mail/facsimile within ten (10) calendar days after receipt of an order. The acknowledgement will include:

- Ordering Agency Name

- Agency Order Number (Purchase Order Number)
- Description of Goods
- Vehicle Model Year
- Total Cost
- Date order is placed with manufacturer
- Anticipated Delivery Date
- Delayed Production Notification (if applicable)
- Discontinued Vehicle Notification (if applicable)

Contractor shall notify the ordering agency of any delays in production or delays in orders being accepted by the manufacturer for any period of time. Contractor shall provide estimated production start date and delivery date.

15. DELAYED PRODUCTION REMEDY

Upon receipt of order acknowledgment identifying a delay in production or orders not being accepted by the manufacturer, the ordering agencies shall have the following options:

- Request back order; or
- Cancel the item from the order with no penalty

16. DISCONTINUED VEHICLE REMEDY

Upon receipt of order acknowledgment identifying discontinued items, the ordering agencies shall have the following options:

- Amend purchase document to reflect DGS approved replacement vehicle; or
- Cancel the item from the order

Under no circumstance is the Contractor permitted to make substitutions with non-contract/unauthorized vehicles without approval of the DGS CA.

17. DELIVERY PROCEDURES

Pre-Delivery Checklist

Prior to delivery, each vehicle shall be completely inspected, serviced, and detailed by the delivering Contractor and/or the manufacturer's pre-delivery service center. A copy of the pre-delivery checklist shall be completed for each vehicle, signed by a representative of the organization performing the inspection/service, and delivered with the vehicle.

Delivery:

Delivery shall be within one hundred and fifty (150) days after receipt of order unless there is a delay in production/order acceptance from the manufacturer when changing from one model year to the next. Contractor shall notify the ordering agency of such delay per Article 14, Order Acknowledgement.

Orders requiring customized work by a 3rd party supplier may exceed the delivery period requirement. Contractor shall notify ordering agency of extended delivery period per Article 14, Order Acknowledgement.

Caravan or drive-away method of delivery from the factory to a Contractor is not acceptable unless agreed upon by the ordering agency.

Drop ship deliveries shall not be made without prior State inspection. All vehicles shall be delivered with no less than five (5) gallons of fuel in the tank.

Unless pre-arranged between the Contractor and the ordering agency, vehicles delivered with more than 50 miles on the odometer may be charged fifty (50) cents per mile in excess of 50 miles. This charge may be reflected on the invoice as a deduction from the order price. Vehicles with more than five hundred (500) miles on the odometer may not be accepted.

**Cab and Chassis trucks may require driving from an out-of-state factory and may exceed the five hundred (500) mile or less expectation. The Contractor shall notify the ordering Department at the time of purchase order execution.

When feasible, Contractor is requested to make deliveries in metropolitan areas during off-peak hours. Off-peak hours are Monday through Friday, 10:00 AM to 4:00 PM PST.

Documents

The following documents shall be delivered to the receiving agency with the vehicle:

- Completed and signed pre-delivery service checklist, including the order number and Vehicle Identification Number (VIN)
- "Line Set Tickets" or "Window (Monroney) Sticker" showing all options installed
- One (1) copy of the warranty, including applicable certificates, cards, etc.
- One (1) copy of the owner's manual.

18. INSPECTION AND ACCEPTANCE

Vehicles ordered for State use will be inspected by a State inspector at the Contractor's place of business or as otherwise agreed to by the Contractor and ordering agency.

Inspection will commence within five (5) working days of notification that a vehicle is ready for inspection. Inspection will include:

- Specification Compliance
- Workmanship
- Appearance
- Proper Operation of all Equipment and Systems
- Presence of all Applicable Documents

In the event deficiencies are detected, the vehicle will be rejected and the Contractor will be required to make the necessary repairs, adjustments or replacements. Payment and/or the commencement of a discount period (if applicable) will not begin until the defects are corrected and the vehicle is re-inspected and accepted.

Completion of inspection or acceptance by the State inspector shall in no way release the Contractor from satisfying the requirements of the contract, specifications, and warranty. Deviations from the specified requirements that are detected by the inspection shall be corrected by the Contractor in an expeditious manner at no expense to the ordering agency.

Inspection by local agencies will be at the Contractor's place of business or as otherwise agreed to by the Contractor and local agency.

19. EMERGENCY/EXPEDITED ORDERS

Not Applicable.

20. FREE ON BOARD (F.O.B.) DESTINATION

Contractors shall deliver vehicles to State or local agencies located in Sacramento County at no additional cost for delivery. If the Purchase Order indicates delivery outside Sacramento County, the Contractor and agency may negotiate delivery costs. If delivery is subject to an additional delivery charge, it shall be shown as a separate item on the purchase order and invoice.

State departments requesting delivery outside of Sacramento County must contact the Transportation Management Unit for freight rate comparisons to confirm appropriate pricing if the Contractor is delivering the vehicle.

Responsibility and liability for loss or damage for all orders shall remain with the Contractor until final inspection and acceptance, when all responsibility shall pass to the ordering agency, except the responsibility for latent defects, fraud, and the warranty obligations.

21. SHIPPED ORDERS

All shipments shall be in accordance with the General Provisions, Article 12 entitled "Packing and Shipment".

22. CONTRACT ADMINISTRATION

The State and the Contractors have assigned Contract Administrators as the single points of contact for problem resolution and related contract issues.

STATE OF CALIFORNIA
DEPARTMENT OF GENERAL SERVICES
PROCUREMENT DIVISION

Contract (Mandatory) 1-22-23-23 B-I
Contract User Instructions, ***Supplement 25***

State Contact Information	DGS/PD Contract Administrator
Contact Name:	Frank Martin
Telephone:	(279) 946-8035
Facsimile:	NA
Email:	Frank.Martin@dgs.ca.gov
Address:	DGS/Procurement Division Attn: Frank Martin 707 Third Street, 2nd Floor, MS 201 West Sacramento, CA 95605

Dealer Contact Information	**Ocean Honda** Contract # 1-22-23-23B	**Freeway Toyota of Hanford** Contract # 1-18-23-23C
Contact Name:	Pat Ireland	Pat Ireland
Telephone:	(559) 707-5735	(559) 707-5735
Facsimile:	(559) 961-4601	(559) 961-4601
Email:	patireland1962@yahoo.com	patireland1962@yahoo.com
Address:	Ocean Honda 3801 Soquel Dr Soquel, CA 95073	Freeway Toyota 1835 Glendale Avenue Hanford, CA 93230

Dealer Contact Information	**Winner Chevrolet** Contract # 1-18-23-23D	**Elk Grove Auto Group** Contract # 1-22-23-23E
Contact Name:	Jerry Powers	Jerry Powers
Telephone:	(916) 426-5752	(916) 426-5752
Facsimile:	(916) 421-0149	(916) 421-0149
Email:	jpowers@lasherauto.com	jpowers@lasherauto.com
Address:	Winner Chevrolet 8575 Laguna Grove Drive Elk Grove, CA 95757	Elk Grove Auto Group 8575 Laguna Grove Dr Elk Grove, CA 95757

Dealer Contact Information	**Downtown Ford Sales** Contract # 1-22-23-23F	**Watsonville Fleet Group** Contract # 1-22-23-23G
Contact Name:	Sandra Scott	Yesenia Covarrubias
Telephone:	(916) 252-6260	(626) 457-5590
Facsimile:	N/A	(626) 457-5593
Email:	sandrascott@fordsacramento.com	yesenia@watsonvillefleetgroup.com
Address:	Downtown Ford Sales 525 N 16th St Sacramento, CA 95811	Watsonville Fleet Group 1601 W. Main Street Alhambra, CA 91801

Dealer Contact Information	**US Fleet Source** Contract # 1-22-23-23H	**CA Car Group** Contract # 1-22-23-23I
Contact Name:	Lisa Molino	Richard M. Slade
Telephone:	(626) 344-4285	(925) 560-4465
Facsimile:	(626) 416-3064	N/A
Email:	info@usfleetsource.com	RichardMS@cacargroup.com
Address:	US Fleet Source 979 S. Village Oaks Drive Covina, Ca 91724	CA Car Group 4200 John Monego Ct Dublin, CA 94568

23. RESTOCKING FEES

The Contractor may impose a restocking fee to the ordering agency on orders cancelled after the order has been placed with the manufacturer: The Contractor shall notify the ordering agency of the order placement per Article 14, Order Acknowledgment.

Re-stocking fees can be no greater than ten percent (10%) of the value of the vehicle being restocked.

24. INVOICING

Ordering agencies may require separate invoicing, as specified by each ordering organization. Invoices will contain the following information:

- Contractor's name, address and telephone number
- Leveraged Procurement Number (Contract Number)
- Agency Order Number (Purchase Order Number)
- Item and commodity code number
- Quantity purchased

- Contract price and extension
- State sales and/or use tax
- Prompt payment discounts/cash discounts, if applicable
- Totals for each order

25. PAYMENT

A. Terms

Payment terms for contracts 1-22-23-23 B – G include a $500 per vehicle discount for payment made within twenty (20) days. Contracts 1-22-23-23 H & I offer no discount. The cash discount time is defined by the State as beginning only after the vehicle has been inspected, delivered, and accepted by the receiving agency, or from the date a correct invoice is received in the office specified on the Purchase Order, whichever is later.

Payment is deemed to be made, for the purpose of earning the discount, one (1) working day after the date on the State warrant or check. Typically, acceptance will be accomplished within twenty (20) business hours after a vehicle is delivered.

Payment will be made in accordance with the provisions of the California Prompt Payment Act, Government Code Section 927, et seq. Unless expressly exempted by statute, the Act requires State departments to pay properly submitted, undisputed invoices not more than forty-five (45) days after the date of acceptance of goods, performance of services, or receipt of an undisputed invoice, whichever is later.

B. CAL-Card Use

Use of the CAL-Card for payment of invoices is not allowed under this statewide contract.

C. Payee Data Record

Each State accounting office must have a copy of the Payee Data Record (Std. 204) in order to process payments. State departments should forward a copy of the Std. 204 to their accounting office(s). Without the Std. 204, payment may be unnecessarily delayed. State departments may contact the Contractor for copies of the Payee Data Record.

D. State Financial Marketplace

The State reserves the right to select the form of payment for all procurements, be it either an outright purchase with payment rendered directly by the State, or a financing/lease-purchase or operating lease via the State Financial Marketplace (GS $Mart and/or Lease $Mart). If payment is via the financial marketplace, the Contractor will invoice the State and the State will approve the invoice and the selected Lender/Lessor for all product listed on the State's procurement document will pay the Contractor on behalf of the State.

26. CALIFORNIA SELLER'S PERMIT

The California seller permit number for the Contractor is listed below. State departments can verify that permits are currently valid at the following website: www.cdtfa.ca.gov. State departments must adhere to the file documentation required identified in the State Contracting Manual Volume 2 and Volume 3 and SCM-F.

Contractor Name	Seller Permit #
Ocean Honda	101-652579
Freeway Toyota	102-659756
Winner Chevrolet	100-208309
Elk Grove Auto Group	100-197237
Downtown Ford Sales	28600344
Watsonville Fleet Group	245364864 101-135239
US Fleet Source	103-097044
CA Car Group	100-214737

27. WARRANTY

The manufacturer's standard new vehicle warranty shall apply to all vehicles purchased from these contracts. All warranties shall be factory authorized. The warranty shall be honored by all franchised dealers of the vehicle within the State of California. The Warranty term for the vehicles offered under these contracts shall meet the following (as applicable):

- Bumper to bumper warranty shall cover not less than 3 years/36,000 miles, no charge for parts and labor.
- Power train warranty for light duty vehicles weighing 8500 lbs. GVWR or less shall cover not less than 5 years/100,000 miles, no charge for parts and labor.
- Power train warranty for vehicles over 8500 lbs. GVWR shall cover not less than 5 years/60,000 miles, no charge for parts and labor.

The State's established preventative maintenance procedures and practices shall be acceptable to the manufacturer/contractor in lieu of the manufacturer's prescribed procedures which may form a part of the warranty.

All emission-related components shall be warranted in compliance with California Air Resources Board and Federal requirements. Contractor cannot offer independent insurance or statements indicating self insurance. If an additional extended warranty is purchased, a warranty certificate, warranty card, or a statement indicating the extended warranty has been recorded with the manufacturer shall be furnished with each vehicle delivered.

Normal wear items such as tires, belts, hoses, headlamps, light bulbs, brake linings, brake discs/drums, etc. are excluded from warranty coverage. All other items not subject to normal wear or gross operator neglect and abuse, such as window, seat, or wiper motors, chassis electrical switches (door, trunk lid), paint, hinges, locks, etc., shall be covered.

The State reserves the right to use re-refined lubrication oils, where available, in lieu of virgin equivalent oils. The re-refined oils used by the State will meet all API and SAE standards and specifications as set forth by the vehicle manufacturer. The use of said oils shall in no way void or degrade the original manufacturer's standard warranty.

The State reserves the right to use recycled content antifreeze/coolant, where available, in lieu of virgin equivalent antifreeze/coolant when servicing its vehicles. The recycled content antifreeze/coolant used by the State will meet all ATSM standards and specifications as set forth by the vehicle manufacturer.

28. REPAIR PARTS

The manufacture of the awarded vehicle(s) should maintain an adequate stock of all regular and special parts to meet the continuing service and repair parts needs of the State without undue delay.

A special system shall be set up for expediting the procurement of back-order items needed to repair an inoperative vehicle including a system to air freight parts at factory expense when parts are not in stock in California parts depots. Parts must be available within three (3) working days after telephone notification.

Vehicles with new technology emerging into the industry (e.g., fuel cell vehicles) may require more than (3) working days for the availability of certain parts. Contractor must notify the State Contract Administrator and ordering agency when this occurs and provide the estimated date of availability.

29. MAINTENANCE PLAN

A maintenance plan is available for light duty vehicles under 8500 lbs. GVWR. The purchase of a maintenance plan is optional. The maintenance plan covers all regularly scheduled service for a minimum of five (5) years/75,000 miles. The maintenance shall include at a minimum all manufacturer recommended services such as, but not limited to:

- Oil changes;
- Filter changes;
- Fluid changes;
- Lubrications;
- Tire rotations;
- Equipment and safety inspections

The Maintenance Plan is not required to cover wear items such as brake pads/shoes, wiper blades, etc.

Purchase of the Maintenance Plan is non-mandatory for State departments.

The Maintenance Plan is not applicable to vehicles over 8,500 lbs. GVWR.

30. *VETTED FORMS/CERTIFICATIONS

The DGS-PD, as the awarding department, has assessed the Contractor and subcontractor forms, certifications, and compliance to performing a commercially useful function (CUF) during the solicitation evaluation process. Consequently, when executing purchase documents pursuant to this contract, it is not necessary for State departments operating under statewide contract purchasing authority to conduct a CUF evaluation or request the completion of the following required certifications and forms:

- ***GenAI Disclosure & Factsheet (STD 1000)***
- ***Bidder Declaration Form (GSPD 05-105)***
- ***DVBE Declaration Form (DGS-PD 843)***
- ***Darfur Contracting Act Form***
- ***California Civil Rights Certification Form***
- ***Iran Contracting Act Certification***
- ***Russian Sanctions Agreement***
- ***Federal Debarment***

State departments should make a notation of this within their procurement file.*

31. RECYCLED CONTENT

State departments are required to report purchases in many product categories. The Postconsumer-Content Certification Form (CIWMB 74) for the Contractor(s) is attached (Attachment C).

32. SB/DVBE PARTICIPATION

There is no Small Business (SB) or Disabled Veteran Business Enterprise (DVBE) participation for this contract.

33. STATE AND LOCAL GOVERNMENT EMPLOYEE PRICING

In the interest of expanding the California marketplace for Zero Emission Vehicles (ZEV), some Contractors have offered a discount to any interested State of California or local government employee when purchasing a ZEV for personal use. A list of participating Dealers and vehicles can be found at: https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/State-of-California-Green-Fleet-Employee-Pricing-Program

34. ATTACHMENTS

Attachment A – Contract Pricing, Supplement 24
Attachment B – Specification 2310-4181, revised 08/16/2021
Attachment C – Postconsumer Content Certification Workbook
Attachment D – Vehicle Specifications, Supplement 23

ATTACHMENT 2

Winner Chevrolet

7220 Fawn Way,
Sacramento, CA 95823
(916)509-8598 - Desk
(916)792-3672 - Cell

To:
Scott Kooreman
City of Livermore

(209) 404-8602

DATE August 13, 2024
Quotation # 3075

Prepared by: Andrew Villareal

Comments or special instructions: Vehicle build and options are in additional pages.
State Contract # 1-22-23-23D

Description	AMOUNT
Line #3 Chevy Tahoe	$ 52,700.00
Options (Refer to Window Sticker):	$ 2,914.00
Upgrade to PPV 2WD	$ 3,200.00
Kerr Upfit (Ballistics and Rear Door Plungers)	$ 4,550.00
Paint 4 doors and roof white	$ 3,000.00
****** Please review, sign, and return a copy of the quote and ******	
****** specs with the PO or the vehicle will not be ordered. ******	
******Shipping charge added for deliveries beyond Sacramento. No charge for will call.******	
Subtotal	$ 66,364.00
DOC Fee	$ 85.00
Taxable Subtotal:	$ 66,449.00
Tax Rate(Subject to change): 10.250%	$ 6,811.02
Tire Fee:	$8.75
Delivery Charge:	$ 300.00
Total:	**$ 73,568.77**
Grand Total	$ 220,706.32

(Order Acknowledgment Signature) **(Date)**

CA Tire Fee: $1.75 / Per Tire

QTY	3

If you have any questions concerning this quotation, contact Andrew Villareal at (916)509-8598
or email at AVillareal@LasherAuto.com

THANK YOU FOR YOUR BUSINESS!

Winner Chevrolet / Elk Grove Auto Group
Andrew Villareal | (916)509-8598 | avillareal@lasherauto.com

[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (✔ Complete)

Note:Photo may not represent exact vehicle or selected equipment.

[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7)

Prepared By
Andrew Villareal
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916-509-8598-Desk
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Table of Contents

- Vehicle Image
- Dealership Information
- Window Sticker
- Standard Equipment
- Weight Rating
- Technical Specifications

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Dealership Information

PLEASE REVIEW THE "WINDOW STICKER," QUOTE, AND ALL INCLUDED INFORMATION AND SPECIFICATIONS FOR ACCURACY. IF A PURCHASE ORDER IS ISSUED, PLEASE INCLUDE A SIGNED COPY OF THIS QUOTE WITH THE "WINDOW STICKER." BY THIS QUOTE BEING SIGNED AND RETURNED BY THE PURCHASING AGENCY, THE PURCHASING AGENCY ACKNOWLEDGES THAT THE VEHICLE CONFIGURATION AND PRICE ARE ACCURATE.***TAX IS NOT INCLUDED IN THE QUOTE PRICE. PURCHASING AGENCY IS RESPONSIBLE FOR CALCULATING TAX. THE TAX RATE IS BASED ON THE REGISTRATION ADDRESS AND CANNOT BE A PO BOX. ******IF THE VEHICLE IS GOING TO BE DELIVERED BEYOND F.O.B. SACRAMENTO, ADDITIONAL COST WILL BE REQUIRED. ***

Thanks!

Prepared By:

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Winner Chevrolet / Elk Grove Auto Group
Andrew Villareal | (916)509-8598 | avillareal@lasherauto.com

[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Window Sticker

SUMMARY

[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial

Interior:Jet Black, Cloth seat trim

Exterior 1:Black

Exterior 2:No color has been selected.

Engine, 5.3L EcoTec3 V8

Transmission, 10-speed automatic

OPTIONS

CODE	MODEL		MSRP
CC10706	[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial		
	OPTIONS		
1FL	Commercial Preferred Equipment Group		$0.00
5J0	Calibration, Front (only) Park Assist Disable.		$0.00
5J1	Calibration, keyless remote panic button and exterior lights/horn disable		$0.00
5J3	Calibration, Surveillance Mode interior lighting	Inc.	
5J9	Calibration, taillamp flasher, Red/White	Inc.	
5LO	Calibration, taillamp flasher, Red/Red	Inc.	
5Y1	Front center seat (20% seat) delete		$0.00
6C7	Lighting, red and white front auxiliary dome		$170.00
6E2	Fleet Calibration		$25.00
6J7	Flasher system, headlamp and taillamp, DRL compatible with control wire	Inc.	
6N5	Switches, rear window inoperative		$57.00
6N6	Door locks and handles, inside rear doors inoperative		$62.00
7X2	Spotlamps, left- and right-hand		$1,340.00
9C1	Identifier for Police Package Vehicle		$0.00
9G8	Headlamps, Daytime Running Lamps and automatic headlamp control delete		$50.00
AMF	Remote Keyless Entry Package		$75.00
ATD	Seat delete, third row passenger	Inc.	

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

AX2	Key, unique	Inc.	
AZ3	Seats, front 40/20/40 split-bench		$0.00
BCV	Lock control, driver side auto door lock disable	Inc.	
C6C	GVWR, 7400 lbs. (3357 kg)		$0.00
CWA	Rear Camera Mirror Washer	Inc.	
DRZ	Rear Camera Mirror, inside rearview auto-dimming		$475.00
GBA	Black		$0.00
GU5	Rear axle, 3.23 ratio		$0.00
H1T	Jet Black, Cloth seat trim		$0.00
IOR	Audio system, Chevrolet Infotainment 3 system, 8" diagonal HD color touchscreen		$0.00
J55	Brake system, heavy duty	Inc.	
K3W	Battery, 850 cold-cranking amps with 95 amp hour rating	Inc.	
K6K	Battery, auxiliary, 760 cold-cranking amps with 70 amp hour rating	Inc.	
KX4	Alternator, 250 amps	Inc.	
L84	Engine, 5.3L EcoTec3 V8		$0.00
MHU	Transmission, 10-speed automatic	Inc.	
PXT	Wheels, 20" x 9" (50.8 cm x 22.9 cm) steel	Inc.	
RAV	Tire, spare 275/55R20 all-season, blackwall, Firestone Firehawk Pursuit	Inc.	
RC1	Skid plate, front	Inc.	
RNQ	Wheel, full-size spare, matching 20" (50.8 cm) steel wheel without center cap	Inc.	
T53	Lamps, alternate flashing Red & Blue rear compartment lid warning		$565.00
T66	Wiring provision, for outside mirrors and cargo side mirrors	Inc.	
UN9	Radio Suppression Package, with ground straps		$95.00
UT7	Ground wires, blunt cut cargo area and blunt cut console area	Inc.	
V03	Cooling system, extra capacity	Inc.	
V53	Luggage rack side rails, delete	Inc.	
VK3	License plate front mounting package		$0.00
VPV	Ship Thru, Produced in Arlington Assembly and shipped to Kerr Industries and onto Arlington Assembly		$0.00
VQ2	Fleet processing option		$0.00

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

VXT	Incomplete vehicle	Inc.	
VZ2	Speedometer calibration	Inc.	
WUA	Fascia, front high-approach angle	Inc.	
XCS	Tires, 275/55R20SL all-season, blackwall, Firestone Firehawk Pursuit	Inc.	
YF5	Emissions, California state requirements		$0.00
Z56	Suspension Package, heavy-duty, police-rated.	Inc.	
___	Capless Fuel Fill	Inc.	
___	Exterior ornamentation delete	Inc.	
___	Instrumentation, analog	Inc.	
___	Theft-deterrent system, vehicle, PASS-Key III	Inc.	
___	Power supply, 50-amp, power supply, auxiliary battery	Inc.	
___	Power supply, 100-amp, auxiliary battery, rear electrical center	Inc.	
___	Power supply, 120-amp, (4) 30-amp circuit, Primary battery	Inc.	
___	Seat belts, 3-point, all seating positions	Inc.	
___	Protected idle	Inc.	

FUEL ECONOMY

Est City:14 (2023) MPG

Est Highway:20 (2023) MPG

Est Highway Cruising Range:480.00 mi

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Winner Chevrolet / Elk Grove Auto Group
Andrew Villareal | (916)509-8598 | avillareal@lasherauto.com

[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Standard Equipment

Mechanical	
	Engine, 5.3L EcoTec3 V8 with Dynamic Fuel Management, Direct Injection and Variable Valve Timing, includes aluminum block construction (355 hp [265 kW] @ 5600 rpm, 383 lb-ft of torque [518 Nm] @ 4100 rpm) (STD)
	Transmission, 10-speed automatic electronically controlled with overdrive, includes Traction Select System including tow/haul (STD)
	Rear axle, 3.23 ratio
	Suspension Package, Premium Smooth Ride (STD)
	GVWR, 7400 lbs. (3357 kg) (2WD model only.) (STD)
	Keyless start, push button
	Automatic Stop/Start
	Engine control, stop/start system disable button, non-latching
	Engine air filtration monitor
	Fuel, gasoline, E15
	Differential, mechanical limited-slip
	Rear wheel drive
	Air filter, heavy-duty
	Cooling, external engine oil cooler, heavy-duty air-to-oil integral to driver side of radiator
	Cooling, auxiliary transmission oil cooler, heavy-duty air-to-oil
	Battery, 730 cold-cranking amps with 80 amp hour rating
	Alternator, 220 amps
	Trailering equipment includes trailering hitch platform, 7-wire harness with independent fused trailering circuits mated to a 7-way connector and 2" trailering receiver
	Trailer sway control
	Hitch Guidance
	Suspension, front coil-over-shock with stabilizer bar
	Suspension, rear multi-link with coil springs
	Steering, power
	Brakes, 4-wheel antilock, 4-wheel disc with DURALIFE rotors
	Exhaust, single system, single-outlet
	Mechanical Jack with tools
Exterior	
	Wheels, 18" x 8.5" (45.7 cm x 21.6 cm) Bright Silver painted aluminum (STD)

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Exterior	
	Tires, 265/65R18SL all-season, blackwall (Standard with (PZX) 18" Bright Silver painted aluminum wheels only.) (STD)
	Wheel, full-size spare, 17" (43.2 cm)
	Tire, spare P265/70R17 all-season, blackwall
	Tire carrier, lockable outside spare, winch-type mounted under frame at rear
	Active aero shutters, upper
	Fascia, front
	Luggage rack side rails, roof-mounted, Black, standard (Available with (5W4) Special Services Vehicle.)
	Assist steps, Black with chrome accent strip
	Headlamps, LED
	Lamps, stop and tail, LED
	Mirrors, outside heated power-adjustable, manual-folding, body-color
	Mirror caps, body-color
	Glass, deep-tinted (all windows, except light-tinted glass on windshield and driver- and front passenger-side glass)
	Glass, acoustic, laminated
	Glass, windshield shade band
	Windshield, solar absorbing
	Wipers, front intermittent, Rainsense
	Wiper, rear intermittent with washer
	Door handles, body-color
	Liftgate, rear manual
Entertainment	
	Audio system, Chevrolet Infotainment 3 system, 8" diagonal HD color touchscreen AM/FM stereo, Bluetooth audio streaming for 2 active devices, voice command pass-through to phone, Wireless Apple CarPlay and Wireless Android Auto compatibility (STD)
	Audio system feature, 6-speaker system
	SiriusXM, delete
	Infotainment display, 8" diagonal touchscreen
	Bluetooth for phone personal cell phone connectivity to vehicle audio system
	Wireless Apple CarPlay/Wireless Android Auto
	Wi-Fi Hotspot capable (Standard with (UE1) OnStar only. Terms and limitations apply. See onstar.com or dealer for details.)

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Interior	
	Seats, front 40/20/40 split-bench (Not available with (D07) center floor console and (USR) USB data ports.) (STD)
	Seat trim, cloth
	Seat adjusters, 8-way power includes 6-way power front passenger seat with 2-way power lumbar
	Seat adjusters, 10-way power includes 8-way power driver seat with 2-way power lumbar
	Seats, second row 60/40 split-folding bench, manual
	Seats, third row 60/40 split-folding bench, manual (Not available with (9C1) Police Vehicle.)
	Floor covering, Black rubberized vinyl (Deleted when (B30) floor covering is ordered.)
	Electronic Precision Shift
	Steering column lock, electrical
	Steering column, manual tilt and telescopic
	Steering wheel, urethane
	Steering wheel controls, mounted audio, Driver Information Center, cruise control and Forward Collision Alert following gap button (if equipped) (left backside Seek/Scan steering wheel radio buttons are inoperable; these 2 buttons can be repurposed for aftermarket emergency equipment)
	Driver Information Center, 4.2" diagonal color display includes driver personalization
	Rear Seat Reminder
	Door locks, power programmable with lockout protection and delayed locking (When ordered with (9C1) Police Vehicle or (5W4) Special Service Vehicle, Auto Lockout is disabled on driver door.)
	Keyless Open includes extended range Remote Keyless Entry
	Cruise control, electronic with set and resume speed
	Theft-deterrent system, content, electrical, unauthorized entry
	USB data ports, 4 total; 2, one-type-A and one type-C located within center console and 2, one type-A and one type-C located on instrument panel
	USB charging-only ports, 4 type-C, (2) located on rear of center console and (2) in 3rd row (1 left and 1 right side below quarter glass side window) (When ordered with (9C1) Police Vehicle, (2) type-C ports are moved to the rear of center seat base and (2) type-C are moved to the cargo area. Deleted when (A50) front bucket seats are ordered.)
	Window, power with driver Express-Up/Down
	Window, power with front passenger Express-Up/Down
	Windows, power with rear Express-Down
	Air conditioning, tri-zone automatic climate control with individual climate settings for driver, right front passenger and rear seat occupants
	Air conditioning, rear

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Winner Chevrolet / Elk Grove Auto Group
Andrew Villareal | (916)509-8598 | avillareal@lasherauto.com

[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Interior	
	Defogger, rear-window electric
	Power outlets, 2, 120-volt, located on the rear of the center seat and rear cargo area
	Power outlet, front auxiliary, 12-volt, located in the center stack of instrument panel
	Mirror, inside rearview manual day/night
	Visors, driver and front passenger illuminated vanity mirrors, sliding
	Assist handles, overhead, driver and front passenger, located in headliner
	Assist handles, front passenger A-pillar and second row outboard B-pillar (Deleted when SEO (7X2) left- and right-hand spotlamps or SEO (7X3) left-hand spotlamp are ordered.)
	Lighting, interior with dome light, driver- and passenger-side door switch with delayed entry feature, cargo lights, door handle or Remote Keyless Entry-activated illuminated entry and map lights in front and second seat positions. On Police/Special Service vehicles, the control switch is located in the roof console in lieu of the driver - and passenger-side door switch with delayed entry feature.
	Cargo management system
	Chevrolet Connected Access capable (Subject to terms. See onstar.com or dealer for details.)
Safety-Mechanical	
	Automatic Emergency Braking
	Hill Start Assist
	StabiliTrak, stability control system with brake assist, includes traction control
Safety-Exterior	
	Daytime Running Lamps, reduced intensity low beam
Safety-Interior	
	Airbags, Frontal airbags for driver and front outboard passenger; Seat-mounted side-impact airbags for driver and front outboard passenger; Head-curtain airbags for all rows in outboard seating positions (Deleted when (A50) front bucket seats are ordered. Always use seat belts and child restraints. Children are safer when properly secured in a rear seat in the appropriate child restraint. See the Owner's Manual for more information.)
	Front outboard Passenger Sensing System for frontal outboard passenger airbag (Always use seat belts and child restraints. Children are safer when properly secured in a rear seat in the appropriate child restraint. See the Owner's Manual for more information.)
	OnStar and Chevrolet connected services capable (Terms and limitations apply. See onstar.com or dealer for details.)
	Front and Rear Park Assist
	Following Distance Indicator (Deleted when (9C1) Police Vehicle is ordered.)
	HD Rear Vision Camera
	Front Pedestrian Braking (Deleted when (9C1) Police Vehicle is ordered.)
	Lane Keep Assist with Lane Departure Warning (Deleted when (9C1) Police Vehicle is ordered.)

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Safety-Interior	
	Forward Collision Alert (Deleted when (9C1) Police Vehicle is ordered.)
	Buckle to Drive prevents vehicle from being shifted out of Park until driver seat belt is fastened; times out after 20 seconds and encourages seat belt use, can be turned on and off in Settings or Teen Driver menu (When ordered with (9C1) Police Vehicle, defaulted off. Feature can be turned on in the Infotainment menu.)
	Door locks, rear child security, manual
	LATCH system (Lower Anchors and Tethers for CHildren), for child restraint seats lower anchors and top tethers located in all second-row seating positions (Deleted when (ATZ) second row seat delete is ordered.)
	Teen Driver a configurable feature that lets you activate customizable vehicle settings associated with a key fob, to help encourage safe driving behavior. It can limit certain available vehicle features, and it prevents certain safety systems from being turned off. An in-vehicle report card gives you information on driving habits and helps you to continue to coach your new driver
	Tire Pressure Monitoring System auto learn, includes Tire Fill Alert (does not apply to spare tire)
	Warning tones headlamp on, driver and right-front passenger seat belt unfasten and turn signal on
	3 Years of OnStar Remote Access. The OnStar Remote Access Plan gives you simplified remote control of your properly equipped vehicle and unlocks a variety of great features in your myChevrolet mobile app. See dealer for details. (Deleted when (UDA) vehicle deactivated communication system is ordered. OnStar Remote Access Plan does not include emergency or security services. Fleet customers will get Fleet Remote Access through OnStar Vehicle Insights. See onstar.com for details and limitations. Available on select Apple and Android devices. Service availability, features and functionality vary by vehicle, device, and the plan you are enrolled in. Terms apply. Device data connection required.)

WARRANTY	
	Basic Years: 3 Basic Miles/km: 36,000 Drivetrain Years: 5 Drivetrain Miles/km: 60,000 Drivetrain Note: 3.0L & 6.0L Duramax® Turbo-Diesel engines, and certain commercial, government, and qualified fleet vehicles: 5 years/100,000 miles Corrosion Years (Rust-Through): 6 Corrosion Years: 3 Corrosion Miles/km (Rust-Through): 100,000 Corrosion Miles/km: 36,000 Roadside Assistance Years: 5 Roadside Assistance Miles/km: 60,000 Roadside Assistance Note: 3.0L & 6.0L Duramax® Turbo-Diesel engines, and certain commercial, government, and qualified fleet vehicles: 5 years/100,000 miles Maintenance Note: First Visit: 12 Months/12,000 Miles

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Weight Ratings

WEIGHT RATINGS	
Front Gross Axle Weight Rating:	3300 lbs
Rear Gross Axle Weight Rating:	4300 lbs
Gross Vehicle Weight Rating:	7400.00 lbs

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Technical Specifications

Powertrain

Transmission

Drivetrain	Rear Wheel Drive	Trans Order Code	MHU
Trans Type	10	Trans Description Cont.	Automatic
Trans Description Cont. Again	N/A	First Gear Ratio (:1)	4.69
Second Gear Ratio (:1)	2.98	Third Gear Ratio (:1)	2.14
Fourth Gear Ratio (:1)	1.77	Fifth Gear Ratio (:1)	1.52
Sixth Gear Ratio (:1)	1.27	Reverse Ratio (:1)	4.86
Clutch Size	N/A	Trans Power Take Off	N/A
Final Drive Axle Ratio (:1)	N/A	Transfer Case Model	N/A
Transfer Case Gear Ratio (:1), High	N/A	Transfer Case Gear Ratio (:1), Low	N/A
Transfer Case Power Take Off	N/A	Seventh Gear Ratio (:1)	1.00
Eighth Gear Ratio (:1)	0.85	Ninth Gear Ratio (:1)	0.69
Tenth Gear Ratio (:1)	0.63		

Mileage

EPA Fuel Economy Est - Hwy	20 (2023) MPG	Cruising Range - City	336.00 mi
EPA Fuel Economy Est - City	14 (2023) MPG	Fuel Economy Est-Combined	16 (2023) MPG
Cruising Range - Hwy	480.00 mi	Estimated Battery Range	N/A

Engine

Engine Order Code	L84	Engine Type	Gas V8
Displacement	5.3L/-TBD-	Fuel System	Direct Injection
SAE Net Horsepower @ RPM	355 @ 5600	SAE Net Torque @ RPM	383 @ 4100
Engine Oil Cooler	N/A		

Electrical

Cold Cranking Amps @ 0° F (Primary)	850	Cold Cranking Amps @ 0° F (2nd)	N/A
Cold Cranking Amps @ 0° F (3rd)	N/A	Maximum Alternator Capacity (amps)	N/A

Cooling System

Total Cooling System Capacity	N/A

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Vehicle

Emissions

Tons/yr of CO2 Emissions @ 15K mi/year	10.4 (2023)	EPA Greenhouse Gas Score	N/A

Vehicle

Rear Door Type	Liftgate

Chassis

Weight Information

Standard Weight - Front	1.00 lbs	Standard Weight - Rear	0.00 lbs
Base Curb Weight	N/A	Gross Axle Wt Rating - Front	3300 lbs
Gross Axle Wt Rating - Rear	4300 lbs	Curb Weight - Front	2715 lbs
Curb Weight - Rear	2668 lbs	Option Weight - Front	39.00 lbs
Option Weight - Rear	55.00 lbs	Reserve Axle Capacity - Front	545.00 lbs
Reserve Axle Capacity - Rear	1577.00 lbs	As Spec'd Curb Weight	5478.00 lbs
As Spec'd Payload	1922.00 lbs	Maximum Payload Capacity	2017.00 lbs
Gross Combined Wt Rating	14000 lbs	Gross Axle Weight Rating	7600.00 lbs
Curb Weight	5383.00 lbs	Reserve Axle Capacity	2122.00 lbs
Total Option Weight	94.00 lbs	Payload Weight Front	0 lbs
Payload Weight Rear	0 lbs	Gross Vehicle Weight Rating	7400.00 lbs

Trailering

Dead Weight Hitch - Max Trailer Wt.	5000 lbs	Dead Weight Hitch - Max Tongue Wt.	500 lbs
Wt Distributing Hitch - Max Trailer Wt.	6000 lbs	Wt Distributing Hitch - Max Tongue Wt.	600 lbs
Fifth Wheel Hitch - Max Trailer Wt.	N/A	Fifth Wheel Hitch - Max Tongue Wt.	N/A
Maximum Trailering Capacity	8400 lbs		

Frame

Frame Type	N/A	Sect Modulus Rails Only	N/A
Frame RBM	N/A	Frame Strength	N/A
Frame Thickness	N/A		

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Chassis

Suspension

Suspension Type - Front	Independent	Suspension Type - Rear	Multi-Link
Spring Capacity - Front	N/A	Spring Capacity - Rear	N/A
Axle Type - Front	N/A	Axle Type - Rear	N/A
Axle Capacity - Front	N/A	Axle Capacity - Rear	N/A
Axle Ratio (:1) - Front	N/A	Axle Ratio (:1) - Rear	3.23
Shock Absorber Diameter - Front	N/A	Shock Absorber Diameter - Rear	N/A
Stabilizer Bar Diameter - Front	N/A	Stabilizer Bar Diameter - Rear	N/A

Tires

Front Tire Order Code	XCS	Rear Tire Order Code	XCS
Spare Tire Order Code	RAV	Front Tire Size	275/55R20SL
Rear Tire Size	275/55R20SL	Spare Tire Size	P275/55R20
Front Tire Capacity	N/A	Rear Tire Capacity	N/A
Spare Tire Capacity	N/A	Revolutions/Mile @ 45 mph - Front	N/A
Revolutions/Mile @ 45 mph - Rear	N/A	Revolutions/Mile @ 45 mph - Spare	N/A

Wheels

Front Wheel Size	20 x 9 in	Rear Wheel Size	20 x 9 in
Spare Wheel Size	20 x -TBD- in	Front Wheel Material	Steel
Rear Wheel Material	Steel	Spare Wheel Material	Steel

Steering

Steering Type	Pwr	Steering Ratio (:1), Overall	N/A
Steering Ratio (:1), On Center	N/A	Steering Ratio (:1), At Lock	N/A
Turning Diameter - Curb to Curb	39.0 ft	Turning Diameter - Wall to Wall	N/A

Brakes

Brake Type	Pwr	Brake ABS System	4-Wheel
Brake ABS System (Second Line)	N/A	Disc - Front (Yes or)	Yes
Disc - Rear (Yes or)	Yes	Front Brake Rotor Diam x Thickness	13.5 x 1.2 in
Rear Brake Rotor Diam x Thickness	13.6 x 1.0 in	Drum - Rear (Yes or)	N/A

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Chassis

Brakes

Rear Drum Diam x Width	N/A

Fuel Tank

Fuel Tank Capacity, Approx	24 gal	Aux Fuel Tank Capacity, Approx	N/A
Fuel Tank Location	N/A	Aux Fuel Tank Location	N/A

Dimensions

Interior Dimensions

Passenger Capacity	6	Front Head Room	42.3 in
Front Leg Room	44.5 in	Front Shoulder Room	66.0 in
Front Hip Room	61.5 in	Second Head Room	38.9 in
Second Leg Room	42.0 in	Second Shoulder Room	64.8 in
Second Hip Room	61.3 in	Third Head Room	N/A
Third Leg Room	N/A	Third Shoulder Room	N/A
Third Hip Room	N/A		

Exterior Dimensions

Wheelbase	120.9 in	Length, Overall w/rear bumper	N/A
Length, Overall	210.7 in	Width, Max w/o mirrors	81 in
Height, Overall	75.8 in	Overhang, Front	N/A
Overhang, Rear w/o bumper	N/A	Front Bumper to Back of Cab	N/A
Cab to Axle	N/A	Cab to End of Frame	N/A
Ground to Top of Load Floor	N/A	Ground to Top of Frame	N/A
Frame Width, Rear	N/A	Ground Clearance, Front	8 in
Ground Clearance, Rear	8 in	Body Length	0.00 ft
Rear Door Opening Height	N/A	Rear Door Opening Width	N/A
Side Door Opening Height	N/A	Side Door Opening Width	N/A
Step Up Height - Front	N/A	Step Up Height - Side	N/A
Cab to Body	N/A		

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[Fleet] 2024 Chevrolet Tahoe (CC10706) 2WD 4dr Commercial (7) (Complete)

Dimensions

Cargo Area Dimensions

Cargo Area Length @ Floor to Console	N/A	Cargo Area Length @ Floor to Seat 1	N/A
Cargo Area Length @ Floor to Seat 2	N/A	Cargo Area Length @ Floor to Seat 3	N/A
Cargo Box Width @ Top, Rear	N/A	Cargo Area Width @ Beltline	N/A
Cargo Box Width @ Floor	N/A	Cargo Box Width @ Wheelhousings	49.4 in
Cargo Box (Area) Height	N/A	Tailgate Width	N/A
Cargo Volume	N/A	Cargo Volume to Seat 1	125.9 ft^3
Cargo Volume to Seat 2	70.3 ft^3	Cargo Volume to Seat 3	N/A
Cargo Volume to Seat 4	N/A	Ext'd Cab Cargo Volume	N/A

Exterior

Doors

Side Door Type	N/A

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IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING ISSUANCE OF A PURCHASE ORDER TO WINNER CHEVROLET IN AN AMOUNT NOT-TO-EXCEED $220,707 FOR THREE 2024 CHEVROLET POLICE PATROL VEHICLES

The Livermore Police Department operates 38 marked patrol cars for community protection and emergency services. The City of Livermore's Fleet Policy currently recommends the replacement of three existing Police Patrol Vehicles.

Livermore Municipal Code section 2.68.360 permits the purchase of certain goods and services through qualifying cooperative purchasing programs. Livermore Municipal Code section 2.68.370 permits the City of Livermore ("City") to participate in cooperative purchasing programs if the underlying purchase was made using a quotation or bid procedure at least as restrictive as the City's.

Winner Chevrolet holds a State of California Statewide Contract for passenger cars and light duty pickups, which include police vehicles. This cooperative purchasing program meets the requirements of the Livermore Municipal Code.

On August 13, 2024, the City received a quote from Winner Chevrolet for three 2024 Chevrolet Police Patrol Vehicles with associated equipment in the total amount of $220,706.32.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager, or her designee, to execute a purchase order, on behalf of the City of Livermore, with Winner Chevrolet in an amount not-to-exceed $220,707, for the purchase and delivery of three 2024 Chevrolet Police Patrol Vehicles in accordance with the terms, specifications and general provisions specified in Statewide Contract 1-22-23-23D, and section 2.68.370 of the Livermore Municipal Code.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 09, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Molly O'Toole
Molly O'Toole
Deputy City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.16**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Paul Spence, Assistant City Manager

SUBJECT: Resolution terminating local emergency in response to impacts from a series of severe storm events last year.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution terminating local emergency in response to impacts from a series of severe storm events last year.

SUMMARY

On January 10, 2023, the City Council adopted a resolution ratifying the Proclamation of the Director of Emergency Services Concerning the Existence of a Local Emergency (Resolution No. 2023-001) in response to impacts from a series of severe storm events.

On February 27, April 24, June 12, July 24, September 11, October 23, and December 11, 2023, and January 22, 2024, and March 11, 2024, and April 15, 2024, and June 10, 2024, and July 22, 2024 the City Council adopted resolutions of continued local emergency. California Government Code section 8630 directs the City Council to review the need for continuing the local emergency at least once every 60 days.

The City Council adopted a series of resolutions continuing the declaration of emergency since it is required to be active in order to remain eligible to apply for and receive funding for costs to respond to and repair damages caused by the storm events.

As of August 2024 all eligible funding sources under the continuing declaration of emergency for response and repair of damages have been approved and there is no longer need for a continued proclamation of local emergency.

DISCUSSION

On January 4, 2023, the Executive Department of the State of California issued Executive Order N-2-23 proclaiming a State of Emergency for the Atmospheric River that started on December 27, 2022. On

January 10, 2023, the City Council ratified a proclamation by the Emergency Services Director of the existence of a local emergency due to conditions of extreme peril to the safety of persons and property that arose within the City of Livermore caused by a series of severe rainstorms and high wind commencing in December 2022 and continuing through January 2023.

Proclamation 23-01 was ratified, as required, by the City Council within seven days (Resolution No. 2023-001). Once ratified, California Government Code section 8630 directs the City Council to review the need for continuing the local emergency at least once every 60 days. On February 27, 2023, the City Council adopted a resolution of continued local emergency (Resolution No. 2023-06).

On March 1, 2023, the Executive Department of the State of California issued a proclamation of State of Emergency due to a severe winter storm event beginning in February 2023 bringing damaging winds and historic precipitation that caused federal and state highways and road closures, and continued to threaten critical infrastructures, power outages, etc.

On March 24, 2023, the Alameda County Director of Emergency Services proclaimed a state of emergency due to conditions of continuing peril that have been presented by winter storms that resumed on February 23, 2023, continuing through March 2023, causing extensive damage and local expenses throughout the County.

On February 27, April 24, June 12, July 24, and September 11, October 23, and December 11, 2023, and on January 22, March 11, and April 15, 2024, and June 10, 2024, and July 22, 2024 the City Council adopted resolutions of continued local emergency (Resolution Nos. 2023-026, and 2023-072, and 2023-111, and 2023-150, and 2023-159, and 2023-187, and 2023-223, and 2024-012, and 2024-031, and 2024-053, and 2024-091, and 2024-139 respectively).

Staff recommends that the City Council terminate the emergency proclamation to reflect the fact that conditions no longer constitute a state of emergency/disaster and all eligible funding sources under the continuing declaration of emergency for response and repair of damages have been approved.

FISCAL AND ADMINISTRATIVE IMPACTS

There is no fiscal or administrative impact to this action.

COMMUNITY PILLAR

1: A Safe Community That Thrives

GOAL

1: Oversee the City's emergency preparedness, management, and response efforts

ATTACHMENTS

1. Resolution

Prepared by: Herbert Cole
Management Analyst

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION TERMINATING THE CITY OF LIVERMORE'S PROCLAMATION OF LOCAL EMERGENCY

(Severe Storm Events – December 2022 through March 2023)

On January 4, 2023, the Director of Emergency Services for the City of Livermore proclaimed a local emergency and conditions of extreme peril to the safety of persons and property existed throughout Livermore due to a series of storms, including atmospheric rivers and strong winds.

On January 10, 2023, the City Council adopted Resolution No. 2023-001 ratifying the proclamation of local emergency and determined that ongoing weather conditions warranted the continued maintenance of the proclamation.

On March 1, 2023, and March 28, 2023, California Governor, Gavin Newsom, proclaimed a state of emergency due to the severe winter storms that struck in late February 2023 and that were forecast to continue through mid-March 2023, and applied his proclamation to Alameda County.

Thereafter, the City Council adopted a series of resolutions continuing the declaration of emergency since it is required to be active in order to remain eligible to apply for and receive funding for costs to respond to and repair damages caused by the storm events.

As of August 2024, all eligible funding sources under the continuing declaration of emergency for response and repair of damages have been approved and there is no longer a need for a continued proclamation of local emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby finds the actual and threatened condition of extreme peril to the safety of persons and property due to the series of storms in 2023, including atmospheric rivers and strong winds, no longer exits and that it hereby terminates the proclamation of local emergency ratified by Resolution No. 2023-001, effective immediately.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason R. Alcala
City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.1**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Joe Testa, Fire Chief

SUBJECT: Hearing to receive and consider protests related to the annual fire hazard abatement program and confirm the 2024 Weed Abatement Program assessments for collection on the County Assessor tax roll.

RECOMMENDED ACTION

Staff recommends City Council consider all protests, and if Council finds appropriate, adopt a resolution overruling protests and confirming the 2024 weed abatement assessments and direct staff to file a certified copy of the assessment report with the County Auditor.

SUMMARY

The Fire Department concluded weed abatement on one (1) parcel in July 2024. As a result, a significant fire hazard in the city has been reduced. The abated parcel is listed in Exhibit A to the resolution.

DISCUSSION

Inspectors surveyed the parcels for compliance after the deadline date of May 31, 2024. All non-compliant parcels were notified with a “Notice of Intent to Abate Hazardous Vegetation” posted on the parcel and a certified letter was sent to the property owner. Staff provided a schedule to all property owners including abatement timelines, type(s) of work needed based on parcel type, size and locations as well as the administrative costs which are charged when the City of Livermore (the City) performs the abatement. Invoices for each property abated have been sent to each property owner. In order to avoid the charges being placed on the parcel tax roll, property owners may pay invoices up to 5:00 p.m. on September 9, 2024.

FISCAL AND ADMINISTRATIVE IMPACTS

The total cost of weed abatement work was $2,637, which includes administrative costs incurred by the City based on Resolution No. 2024-057, which authorized the Fire Department to proceed with the Fire Hazard Abatement Program. The total cost of work is fully recoverable and becomes a special assessment on the property owner's tax bill. Administrative costs include staff time to continue

monitoring weed and debris hazards, preparation of parcel lists, publication of notices, mailing of letters, and invoices for the work performed. Also included is the cost of updating the parcel databases.

COMMUNITY PILLAR

1: A Safe Community that Thrives

GOAL

5: Ensure effective fire suppression, prevention, emergency medical and disaster services to meet the evolving needs of our communities and other changing conditions

ATTACHMENTS

1. Resolution
2. Exhibit A - 2024 Weed Abatement Assessments

Prepared by: Shin Oh
Administrative Assistant

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION OVERRULING PROTESTS AND CONFIRMING ASSESSMENTS – FIRE HAZARD ABATEMENT

Pursuant to Government Code sections 39560, et seq., the City of Livermore ("City") has completed proper notice, hearings, and all required proceedings as described in Resolution Nos. 2024-030 and 2024-057 to abate fire hazards**.**

On March 11, 2024, the City Council passed and adopted Resolution No. 2024-030 declaring that there exist conditions of growing weeds, accumulated refuse, rubbish or dirt on private property and/or on the streets, parkways and/or sidewalks adjacent to each parcel of real property described in the resolution, and that such conditions are a public nuisance and shall be abated.

On April 15, 2024, the City Council adopted Resolution No**.** 2024-057 which ordered the abatement of the public nuisances on the properties described in the resolution and declared that the abatement costs (including administrative costs incurred by the City) are the responsibility of the property owners.

The City Clerk has, within the time required by law, prepared the assessment list for the abated properties identified in Exhibit A and caused it to be posted on or near the Council Chamber door with the time shown when said list shall be submitted to the City Council for confirmation at 7 p.m. on September 9, 2024.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that:

1. All protests or objections of the property owners, if any, have been overruled by motion.

2. The weed abatement assessments identified in the attached Exhibit A are hereby confirmed, as submitted; and

3. The cost of abating weeds for each property including the administrative costs, shall become an assessment on the property for the unpaid invoiced amount and placed on the County tax roll.

On motion of Councilmember _____, seconded by Councilmember _____, the foregoing Resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

RESOLUTION NO. _____

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Molly O'Toole
Molly A. O'Toole
Deputy City Attorney

Exhibit A - 2024 Weed Abatement Assessments

EXHIBIT A

Notice of Public Hearing September 9, 2024

Weed Abatement Assessments

The City Council will conduct a public hearing to consider and rule on protests on September 9, 2024 at 7:00 p.m. If you have any questions or need assistance prior to the meeting, contact the Livermore-Pleasanton Fire Department at 925-454-2366.

Parcel #	Property Address	Owner(s)	Mailing Address	Cost of Work	Admin Fee	Total Due
098 035005400	Marylin Ave	Kenneth A TR Kremer	22093 Redwood Rd Castro Valley, CA 94546	1,598.00	1,038.70	2,636.70
			Total	**1,598.00**	**$1,038.70**	**$2,636.70**

The real property described in Resolution No. 2024-057 has been posted as required by law and the City Clerk has given written notice of the abatement to all persons owning the property described in Resolution No. 2024-057 at least five days prior to the date set for the hearing of objections to the abatement.

Total due is rounded to even cents per County tax rules

Attachment 1

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.2**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Brent Smith, Community Development Director

SUBJECT: Hearing to consider a request for a Specific Plan Amendment, Planned Development, Site Plan Design Review Modification, and Development Agreement Amendment to modify the 2017 approval for the Arroyo Vista Residential Project to increase the height of the single family detached units from two stories to three stories, remove a pedestrian bridge requirement, and secure community benefits including pocket parks and a financial contribution.

RECOMMENDED ACTION

The Planning Commission and staff recommend the City Council:

1. Adopt a resolution certifying the 2024 Arroyo Vista Neighborhood Project Addendum to the Arroyo Vista Neighborhood Plan Initial Study Mitigated Negative Declaration [IS/MND], as amended by the 2017 Addendum for the Arroyo Vista Residential Development,
2. Adopt a resolution approving Specific Plan Amendment (SPPA) 24-002;
3. Adopt a resolution approving Site Plan Design Review Modification (SPDRM) 24-002;
4. **Introduce an ordinance** and waive the first reading authorizing execution of Planned Development Amendment (PD) 24-001; and
5. **Introduce an ordinance** and waive the first reading authorizing execution of Development Agreement Amendment (DAA) 24-001.

SUMMARY

In 2017, Summerhill LLC. received approval to build 435 residential homes known as the Arroyo Vista Project. In 2024, Trumark Homes, LLC., who purchased the project applied to modify the 2017 approval by increasing the number of stories for the single-family homes from two stories to three stories, remove the pedestrian bridge requirement, incorporate two pocket parks in place of the bridge landings, and provide an in-lieu contribution of $2,000,000. The site is located southeast of Arroyo Vista and Las Positas Road and is approximately 29 acres total. The project includes a Specific Plan Amendment, Planned Development rezoning, Site Plan Design Review Modification, and Development Agreement Amendment. No other portions of the 2017 approved neighborhood are being changed with the current proposal. The project has not yet been constructed, but part of the site is currently being graded to allow

construction of the residential buildings that are not subject to this amendment.

DISCUSSION

BACKGROUND

On February 9, 2004, the Livermore City Council adopted the 2003 Livermore General Plan identifying the subject site as an appropriate location for a new residential neighborhood. On July 2, 2007, the Livermore City Council adopted Resolution 2007-131 approving the Arroyo Vista Neighborhood Plan (Neighborhood Plan), establishing the basic development framework for residential land use, circulation, open space, architecture, and landscaping for the project site. The Neighborhood Plan established a requirement for Planned Development Residential rezoning, Tentative Subdivision Map, Site Plan and Design Review, and Development Agreement application in order to develop the property. On July 24, 2017, the Livermore City Council approved land use entitlements for Summerhill Homes to develop 435 residential units. The project included single-family homes, town flats, and townhomes with amenities such as a community pool, clubhouse, two neighborhood parks, frontage improvements, and a walking trail with a pedestrian bridge over the Arroyo Seco Channel. The specific entitlements were Planned Development (PD) 16-004, Development Agreement (DA) 17-002, Vesting Tentative Tract Map (VTTM) 8379 Subdivision (SUB16-010), and Site Plan Design Review (SPDR16-027).

Summerhill Homes never developed the project and it was eventually sold to Trumark Homes, LLC. On January 8, 2024, Trumark Homes, LLC., applied for an amendment to the project as part of this current application. This amendment includes changes to the height and design of single-family detached residential units, removal of an approved pedestrian bridge and replacement with pocket parks, as well as an in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund.

PROJECT DESCRIPTION

The project site includes approximately 29 acres divided into two parcels that are bisected by the Arroyo Seco flood control channel located southeast of Arroyo Vista and Las Positas Road. The project is an amendment to the approved Arroyo Vista Neighborhood Plan (Neighborhood Plan) and Arroyo Vista Project. The Arroyo Vista Project and entitlements satisfied the Arroyo Vista Neighborhood Plan implementation requirements.

The current project proposal includes modifications to the 86 Single-Family Detached houses on the western parcel, removal of the pedestrian bridge over the Arroyo Seco channel, and the addition of two pocket parks in place of the respective bridge landing as well as open space, pedestrian pathways, and other amenities such as benches along the walking trail. The project also includes a financial contribution that is a community benefit as described below. No other portions of the 2017 approved neighborhood are being changed with the current proposal as the number of residential lots and site plan layout are remaining unchanged.

It should be noted that if the project is approved, a new Final Map for the western parcel will require future City Council approval. The approved pedestrian bridge is proposed to be removed primarily due to long-term maintenance and cost issues. Zone 7 owns and maintains the Arroyo Seco flood control channel – the bridge would span over this channel. The Neighborhood Plan Amendments are provided in Attachment 12. The current Planned Development Residential rezoning for the property would be

amended to permit the increased height for the Single-Family Detached houses. In addition, the Planned Development Residential zoning required a pedestrian bridge over the Arroyo Seco Channel to be developed. In place of the pedestrian bridge landings, the Project proposes two pocket parks.

The 86 Single-Family Detached houses are located on the western parcel of the project site. Attachment 2 shows the Project location and the site plan as well as the boundaries of the amendment. These units would be increased from two stories to three stories in height up to a maximum of 45 feet. The architecture for the Single-Family Detached houses is also modified to account for the increased building height. The Developer proposes three floor plans, please refer to Table 1 in Attachment 1. The Development Agreement Amendment captures the modified entitlements and property owner obligations, including removal of the pedestrian bridge, addition of the pocket parks, and a financial contribution of $2,000,000 to the City to be split evenly between the Community Benefit Fund and Social Opportunity Endowment Fund. Other off-site improvements include streetscape improvements along all public street frontages and underground utilities.

DESCRIPTION, CONTEXT, AND ANALYSIS

For a complete project description, site context, and analysis of applicable State and local standards, please review the attached Staff Analysis Planning Commission Memorandum (Attachment 1).

PLANNING COMMISSION AND PUBLIC COMMENT

The Planning Commission considered the project at a public hearing on July 16, 2024. The draft meeting minutes summarize the discussion (Attachment 3). Staff received one written public comment via email requesting clarification for how the project meets the inclusionary housing requirements. The e-mail was included as part of a supplemental packet provided to the Planning Commission on July 16, 2024. In addition, there was one speaker who called for revisions to the staff report to clarify the circumstances that occurred impacting the bridge feasibility with the City and Zone 7.

The Planning Commission's primary topics of discussion included architecture, active transportation and connectivity, bridge infeasibility, open space, and the community benefit financial contribution. Ultimately, the Planning Commission unanimously approved the project with recommendations to amend two conditions of approval and adding one new condition as shown below. The underlined text indicates the Planning Commission changes. These recommendations have been incorporated into the attached project Conditions of Approval:

1. Prior to Final Map, the applicant shall provide a plan showing and installing a pedestrian path connecting the pocket park on the west site to the Arroyo Seco trail as approved by the Community Development Director. The applicant will be responsible for grading in such a way that does not inhibit the feasibility of this design as the design will be finalized in the Final Map and Improvement Plan Stage. <u>The Community Development Director can waive this condition if construction of the pedestrian path becomes infeasible.</u>
2. Prior to the Final Map approval, the applicant shall design and provide two benches along the 5' path to the west of the Arroyo Seco Channel trail. <u>The Community Development Director can waive this condition of installation of the two benches becomes infeasible.</u>
3. <u>To the extent feasible, the developer shall enhance the unit located at the corner of Las Positas Road and Arroyo Vista to reduce the visual massing and provide articulation (lot #1).</u>

It should be noted that Planned Development zoning district has been further amended by staff with a small change for clarity, but no change in policies, since the Planning Commission meeting. This staff change is indicated on Exhibit A to the Planning Commission Project Approval Resolution.

ENVIRONMENTAL DETERMINATION

A 2024 Addendum to the Arroyo Vista Neighborhood Plan Initial Study Mitigated Negative Declaration [IS/MND], as amended by the 2017 Addendum for the Arroyo Vista Residential Development, was prepared for the project. No new impacts or mitigation measures were identified in the 2024 Addendum (Attachment 4). As described in the Environmental Resolution (Attachment 4), no subsequent or supplemental IS/MND is required under the provisions of California Environmental Quality Act (CEQA) Guidelines section 15162. No subsequent Negative Declaration is required given that substantial project and circumstantial changes have not occurred and no new information of substantial importance as set forth in CEQA Guidelines 15162 exists.

FISCAL AND ADMINISTRATIVE IMPACTS

Staff time allocated to land use entitlement review are offset by required entitlement application fees. The incremental increase in demand for water, sewer, and stormwater services will be offset by required impact fees and utility connection fees. All new onsite streets, parks, and landscaping will be privately maintained by the project's Homeowner's Association (HOA). Consistent with Livermore's practice, onsite water and sewer lines would be maintained by the City, which would be covered by user fees. The project would also utilize a Community Facilities District to pay for offsite public improvements that will help serve the future residents of this project. In addition, the project will contribute $2,000,000 to be split evenly into the Community Benefit Fund and Social Opportunity Endowment Fund.

COMMUNITY PILLAR
1: A Safe Community that Thrives

GOAL
9: Facilitate new development consistent with the City's General Plan.

ATTACHMENTS

1. Memo - Staff Analysis - Arroyo Vista
2. Location Map
3. Planning Commission Meeting Minutes
4. Resolution - CEQA
5. Exhibit A - Planning Commission CEQA Resolution
6. Exhibit B - 2017 Addendum
7. Exhibit C - MMRP
8. Exhibit D - Arroyo Vista Addendum
9. Resolution - Specific Plan Amendments
10. Exhibit A - Planning Commission Project Approval Resolution
11. Exhibit B - Specific Plan Amendments

12. Resolution - Project
13. Exhibit A - Planning Commission Project Resolution
14. Exhibit B - Proposed Plans
15. Exhibit C - Conditions of Approval
16. Ordinance - Planned Development
17. Exhibit A - Planning Commission Project Approval Resolution
18. Exhibit B - Planned Development Text Amendment
19. Ordinance - Development Agreement Amendment
20. Exhibit A - Planning Commission Project Approval Resolution
21. Exhibit B - Development Agreement Amendment

Prepared by: Kaitlyn Harrison
Assistant Planner

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

PLANNING COMMISSION MEMORANDUM

TO: Chairperson Anderson and
Members of the Planning Commission

PREPARED BY: Kaitlyn Harrison, Assistant Planner

REVIEWED BY: Stephen Riley, Planning Manager
Ashley Vera, Acting Principal
Planner

DATE: July 16, 2024

SUBJECT: Specific Plan Amendment (SPPA) 24-002, Planned Development (PD) 24-001, Site Plan Design Review Modification (SPDRM) 24-002, and Development Agreement Amendment (DAA) 24-001, amending previous entitlements to allow minor design changes to single family detached homes, removal of pedestrian bridge and securing community amenities including pocket parks and financial contribution for the Arroyo Vista Development.

PROJECT DESCRIPTION

The project site includes approximately 29 acres divided into two parcels that are bisected by the Arroyo Seco flood control channel located southeast of Arroyo Vista and Las Positas Road.

The project is an amendment to the approved Arroyo Vista Neighborhood Plan (Neighborhood Plan) and Arroyo Vista Project. In 2007, the City Council approved the Neighborhood Plan which established the framework for residential land use, circulation, open space, architecture, and landscaping for the project site. In 2017, the City Council approved the Arroyo Vista Project for the construction of 435 residential units, two neighborhood parks, open space, pedestrian pathways, landscaping, lighting, streetscape improvements, and a pedestrian bridge over the Arroyo Seco channel to connect the two sides of the project. The Arroyo Vista Project included a Vesting Tentative Tract Map, Planned Development zoning, Site Plan and Design Review, and Development Agreement. The Arroyo Vista Project and entitlements satisfied the Arroyo Vista Neighborhood Plan implementation requirements.

The residential project has not yet been constructed, but part of the site is currently being graded to allow construction of the residential buildings that are not subject to this amendment.

The current project proposal includes modifications to the 86 Single-Family Detached houses on the western parcel, removal of the pedestrian bridge over the Arroyo Seco channel, and the addition of two pocket parks in place of the bridge landing totaling approximately 0.2 acres as well as open space, pedestrian pathways, and other amenities such as benches along the walking trail on the 15.62-acre project site. The project also includes a financial contribution that is a community benefit as described below. No other portions of the 2017 approved neighborhood are being changed with the current proposal as the number of residential lots and site plan layout are remaining unchanged. It should be noted that if the project is approved, a new Final Map for the western parcel will require future City Council approval.

The approved pedestrian bridge is proposed to be removed primarily due to liability and legal issues that could not be resolved with the City and Zone 7. Zone 7 owns and maintains the Arroyo Seco flood control channel – the bridge would span over this channel. The Neighborhood Plan Amendments are provided in Attachment 9.

The current Planned Development Residential zoning for the property would be replaced with a new Planned Development Residential zoning to permit the increased height for the Single-Family Detached houses. In addition, the Planned Development Residential zoning required a pedestrian bridge over the Arroyo Seco Channel to be developed. In place of the pedestrian bridge landings, the Project proposes two pocket parks.

The 86 Single-Family Detached houses are located on the western parcel of the project site. Attachment 2 shows the Project location and the site plan and the boundaries of the amendment. These units would be increased from two stories to three stories in height up to a maximum of 45 feet. The architecture for the Single-Family Detached houses is also modified to account for the increased building height. The Developer proposes three floor plans, as follows:

Table 1. Single-Family Detached Units

Plan #	Number of Units	Living Space (sq ft)	Bedroom/Bathrooms
1	19	3,101	3 / 3/ ADU
2	37	2,837	4 / 3
3	30	2,958	4 / 3

The Development Agreement Amendment captures the modified entitlements and property owner obligations, including removal of the pedestrian bridge, addition of the pocket parks, and a financial contribution of $2,000,000 to the City to be split evenly between the Community Benefit Fund and Social Opportunity Endowment Fund.

Other off-site improvements include streetscape improvements along all public street frontages and underground utilities.

PROJECT SITE CONTEXT

The site is relatively flat and vacant. The project site is bisected by the Arroyo Seco flood

control channel, which is lined with sparse vegetation. The site is surrounded by existing commercial and light industrial development, although the vacant land to the east of the eastern project parcel also has a dual designation allowing for residential development (see table below). While the site is currently flat and vacant, ongoing construction is occurring on the west parcel because the City has approved a Final Map and Improvement Plans for the west parcel.

The Project would have to obtain a new Final Map and Improvement Plans, consistent with this amendment, if the Planning Commission recommends and City Council ultimately approve this Project. The proposed conditions of approval ensure that ongoing construction shall not preclude conditions of approval, design features, or standards required for this Project.

Table 2. Project Property and Surrounding Land Uses

	General Plan Designation	**Current Zoning Classification**	**Existing Land Use**
North	Community Serving General Commercial (CSGC) (LII)	Planned Unit Development PUD 138	Community Serving General Commercial
South	Low Intensity Industrial (LII)	Planned Unit Development PUD 246-81	Light industrial
East	Low Intensity Industrial (LII) or Urban High Residential (UH) - 5b (30 to 38 du/acre), Transfer of Development Credit Receiver Site	Planned Unit Development PUD 246-81	Light Industrial
West	Neighborhood Commercial	Planned Development - Commercial PDC 00-193	Commercial
Subject Site	Low Intensity Industrial (HII) or Urban High Residential (UH)- 3 (14 to 18 du/acre), Transfer of Development Credit Receiver Site, floating Open Space/Park (OSP) [on the western parcel]	Planned Unit Development PD-16-004	Vacant

STAFF ANALYSIS

General Plan

The site has a dual General Plan Land Use designation of Low Intensity Industrial (LII) or Urban High Residential - 3 (14 to 18 du/acre) (UH-3), with an Open Space floating

designation. The dual designation gives the property owner a choice to develop a residential or industrial project. Consistent with the UH-3 designation, the 2017 approved project had a gross density of approximately 15 units per acre. The number of units are not being modified as part of the project proposal. Therefore, the project is consistent with SPDR 16-007 and meets the density requirement for UH-3 designation.

The "floating" Open Space/Park (OSP) designation is not site specific, but rather indicates the general area where the City anticipates a future need for park facilities. The Neighborhood Plan specifies that the future development shall have two accessible, neighborhood-serving parks at least 0.2 acres in size and located on either side of the site. The proposed project complies with this requirement, as described in detail under Open Space and Parks below. The 2017 approved provides two accessible parks at the east and west parcels of at least 0.2 acres in size which is not being modified as part of this project proposal. In addition, two pocket parks are being provided on the east and west parcels. The project meets the open space requirement.

The General Plan Land Use, Housing, and Community Character Elements include the following Goals, Objectives, and Policies for new development projects within the City of Livermore. The amended project continues to support the broader goals and policies that the 2017 project supported including:

- Goal LU-1 Protect the unique qualities of Livermore, which include a historic Downtown, a variety of residential neighborhoods, vineyards, ranches, natural habitats, and open space.
- Obj. LU-1.1 Locate new development so as to create a consolidated pattern of urbanization, maximizing the use of existing public services and facilities.
- Housing - Goal 1: Diversity of housing choice: Address the diverse housing needs of all economic segments of the community by allowing for a range of housing types, price levels, and density.
- Goal CC-2 Maintain high standards of urban design in Livermore.
- Obj. CC-2.1 Maintain and enhance Livermore's urban design quality and encourage high quality design in all new development and redevelopment.
- Policy P4:

  Design requirements and amenities shall be encouraged in new development and redevelopment, including, but not limited to:
  (a) Interconnected street layout;
  (b) Clustering of buildings;
  (c) Landscaping on each lot;
  (d) Visual buffers;
  (e) Facilitating pedestrian activity; and
  (f) Distinctiveness in architectural design.

- Policy P6:

  New residential, commercial, and mixed-use neighborhoods shall promote comfortable, safe, and human-scaled design, pedestrian-oriented design features,

The proposed project continues to implement the General Plan and Arroyo Vista

Neighborhood Plan, as amended. The project provides a cohesive, pedestrian-oriented neighborhood that incorporates community design elements with trails, open space, and walkways connecting to the surrounding area. This infill project also implements a smart growth strategy by avoiding "greenfield" development and suburban sprawl, utilizing existing infrastructure systems, and placing a higher density residential project near bus routes and services on First Street. The Vasco ACE station is located 1.3 miles east of the site (a 25-minute walk or 10-minute bike ride).

Transfer of Development Credit Program: The General Plan designates the site as a Transfer of Development Credit (TDC) Receiver Site. As a TDC Receiver Site, any residential development is subject to the provisions of the City's TDC Ordinance. Under the TDC Ordinance, the residential builder must purchase one and one-quarter TDCs for each detached dwelling and one-half TDC for each attached dwelling. TDC's may be purchased from willing sellers in North Livermore, or the builder may pay an in-lieu fee. In-lieu fee revenue may then be utilized by the City to acquire open space in North Livermore.

The Developer did comply with the TDC Ordinance by paying the in-lieu fee for the west parcel of $1,643,407.16. The developer will also pay the appropriate TDC fees for the east parcel prior to final map approval for that side.

Zoning

The site's current Zoning Classification is Planned Development (PD) 16-004. The proposal includes a Planned Development rezoning, which will implement the General Plan UH-3 designation and Arroyo Vista Neighborhood Plan as well as allow building heights of three stories and allow a height of up to 45 feet. The Planned Development also incorporates all provisions of the corresponding TDC receiving area General Plan Designation, as well as the TDC Ordinance requirements from the previous Planned Development.

Arroyo Vista Neighborhood Plan

The Neighborhood Plan includes elements that should remain relatively fixed and elements that are more flexible. The Arroyo Vista Neighborhood Plan includes the following essential elements:

- An attractive architectural street facade along the entire perimeter of the project site,
- At least three different housing types,
- An interconnected, pedestrian-friendly street system,
- A hierarchical open space system of parks and common open space areas,
- Preservation of trees and natural features, to the extent possible, and
- A buffer (building setback) and multi-use trail along the Arroyo Seco Channel.

Other fixed elements include but are not limited to: the density range, minimum amount of park and open space per attached unit, building heights, and setbacks/separations (mainly for the single-family detached product type). Examples of flexible elements

include the distribution of development prototypes, precise street layout, the open space and park space configuration, and architectural styles.

The proposed project meets or exceeds all Neighborhood Plan requirements and is consistent with the general intent of the essential and flexible elements, as amended. For example, all of the paseos meet the minimum paseo width requirement with many of them exceeding the standard requirement. Additionally, park space is proposed in the form of pocket parks. The following sections elaborate on how the proposal implements the Arroyo Vista Neighborhood Plan.

Land Use Compatibility

The site has been designated for residential development since the 2004 General Plan update. Residential uses in the project area will benefit from the proximity to commercial uses on First Street, I-580, Arroyo Seco, and the ACE Train Station. The Neighborhood Plan addresses the interface between residential uses and the light industrial and commercial uses in the surrounding area. For example, landscaped setbacks along the project frontage and on properties across Las Positas Road and Arroyo Vista also serve as buffers. The Project as modified remains compatible with the Land Use.

Site Plan

Street Pattern

Unless otherwise stated, the following analysis is specific to the modified project only, rather the full development. Generally, this design is consistent with the 2017 approval with minor changes of 26-foot-wide streets serving the single-family homes to accommodate emergency vehicle access and to the three-story homes. A public loop street will be provided for primary vehicle circulation. The loop road will meet City standards for public streets, with a curb-to-curb width of 34 feet and 5-foot-wide sidewalks. Secondary circulation will be provided by private alleys that are 20 feet or 26 feet wide. The alleys will provide vehicular access to garages.

The street pattern and sections shown on the Site Plan are consistent with the Arroyo Vista Neighborhood Plan's design concept, street sections, and Design Standards and Guidelines. The proposed street pattern reflects the Neighborhood Plan's vision and urban design concepts for a pedestrian-oriented development. For example, all units will have entries facing a street or paseo (i.e., a landscaped pathway between residences or along open spaces).

The sidewalks, paseos, and multi-use trail along the Arroyo Seco will provide a well-connected network for walking and biking. The loop streets will have on- street parking on at least one side of the street, with a separated sidewalk with a landscape strip on the other side. These features, in addition to the two raised crosswalks on the loop street, will enhance safety by calming traffic speeds. Additional features such as street trees, benches, and human-scaled lighting such as lighted bollards will further enhance the pedestrian environment.

Traffic

The number of units from the 2017 approval is the same and is consistent with the traffic analysis. Therefore, there are no new traffic impacts related to the modified project proposal.

Vehicle and Bike Parking

According to the Neighborhood Plan, all units shall have two dedicated parking spaces. In addition, single-family detached units should have at least one space per unit of on-site guest parking. The proposed development requires 172 off-street resident spaces (2 per unit) and 86 on-street guest parking spaces (1 per unit) for a total of 258 spaces and an overall ratio of 3 spaces per unit. All 86 units will have a two-car garage with ground floor alley access (for a total of 172 off-street parking spaces). Additionally, the 2017 approval included a minimum of eight bicycle stalls at each neighborhood park that were to be located adjacent to bike paths. The modified Project is consistent with this requirement and does not make any changes to the 2017 approval. The proposed ratio of 3 parking spaces per unit exceeds the cumulative total required for the project site under the Livermore Development Code.

Any new or existing on-street parking along Arroyo Vista is considered as off-site parking and does not count towards the guest parking minimum. Consistent with the 2017 approval, 15 on-street parking spaces will be located on Arroyo Vista.

Trails, Pedestrian, and Bicycle Facilities

The project includes a paved 12-foot-wide multi-use trail along the west side of Arroyo Seco utilizing a Zone 7 service road. This trail segment is a required element of the Neighborhood Plan and is consistent with the 2017 approval. The project proposal is to remove the pedestrian bridge but is conditioned to install a pathway connecting the new western pocket park to the Arroyo Seco trail and add two benches along the trail.

The project will provide a signalized intersection with four-legged crosswalks as a trail crossing of Las Positas Road. The 2017 Traffic Assessment also recommends installation of a high visibility crosswalk on Arroyo Vista at the trail crossing to the north. As a condition of approval (Engineering Considerations), the project will also install buffered bike lanes on Las Positas Road along the project frontage consistent with the 2017 Engineering Considerations.

In lieu of the pedestrian bridge, the project still provides a sidewalk pedestrian connection at Las Positas Road between the east and west parcels. In addition, there are internal pedestrian paths that will connect to the Las Positas Road sidewalk, the Arroyo Seco trail, both pocket parks, the approved on-site amenities (e.g. pool and recreation building) and the bike lanes. Furthermore, In lieu of a pedestrian bridge to connect the east and west parcels of the site, the Developer will contribute $2,000,000 to be evenly split between the Community Benefit Fund and the Social Opportunity Endowment Fund. Refer to the 2017 Development Agreement for developer contributions to off-site trail improvements that would help enhance connectivity to nearby destinations. The modified Project does not make changes to these off-site trail

improvements and is consistent with the 2017 Development Agreement.

The closest existing public park is Lester Knott Park, located on Mines Road approximately 0.7 mile west of the site (15-minute walk). The closest school is Jackson Avenue Elementary School, about 1.5 miles to the south, while Junction Avenue K-8 School is two miles to the west of the site. The site is also within biking distance to the two ACE stations located less than 2 miles to the east and 2 miles to the south-west.

The pedestrian, bicycle, and transit options in the area and proposed by the project will allow for and encourage non-automobile trips, consistent with the 2017 approval.

Open Space and Parks

The Neighborhood Plan envisions a hierarchical system of open space types, interconnected by a network of pathways. The guiding principles include:

- conveniently accessible neighborhood parks on each side of the channel,
- usable common open space areas including paseos,
- minimum 30' wide buffer areas and multi-purpose trails adjacent to the Arroyo Seco Channel, and
- recreation amenities that shall include at least one tot lot or playground and a prominent community center or clubhouse. A pool is also encouraged as an additional amenity.

The Neighborhood Plan assumes that the front and side yards of detached units will provide sufficient open space for these product types and does not specify a minimum area per unit. The proposed open space plan for the modified Project includes about 3 acres of open space and .07 acre of private open space.

The required open space must be distributed among three types: common areas, private space, and semi-private space. The proposed open space plan complies with the required distribution of the total open space by type. Common areas are defined as usable open spaces shared or common with other property owners, such as neighborhood and pocket parks, greens, gardens, and paseos. The multi- use trail along Arroyo Seco also counts towards the common open space requirement, as the Neighborhood Plan considers this a principal component of the recreational/open space concept. Private spaces proposed on the site include areas for the exclusive use of a single property owner including porches, balconies, and courtyards. Semi-private areas include all other landscaped areas on the site, such as paseos.

Overall, the open space plan establishes a hierarchical system of parks and common areas interconnected by a network of pathways, consistent with the key design elements of the Neighborhood Plan. The 2017 approved project integrates a neighborhood park into each side of the site, providing key community gathering spaces and recreational opportunities as well as pocket parks. The parks are centrally located to facilitate maximum accessibility for residents and meet the minimum size requirement of 0.2 acre each. The acreage for these neighborhood parks are not factored into the total open

space provided because they are not within in the scope of this project. However, together with the modified Project, they help to meet the amenity requirement specified by the Neighborhood Plan of a clubhouse. Additionally, a pool is recommended and is provided in the 2017 approval. These parks have not changed as part of the current project and are consistent with the 2017 approval.

The new proposed pocket park on the west side of the site is 0.14-acres and includes a barbeque area and picnic tables located under a pergola. The project still includes the larger neighborhood park with a clubhouse, outdoor kitchen, outdoor fireplace, lounge areas, cabanas, and two pools; the area with these amenities will have restricted access for residents and their guests. The pools will be sized 1,250 square feet (for adults and older children) and 240 square feet (for young children).

The new pocket park on the east side will be 0.07 acre and includes a barbeque area and picnic tables located under a pergola. Other usable common areas include landscaped paseos and small plazas. Pedestrian features along the walking routes provide additional resident amenities and increase the functionality of these linear open spaces. The modified Project and 2017 approval combined, meet the Open Space, Parks, and Neighborhood Plan requirements.

Lot Layout

The project changes does not significantly modify the lot layout approved in 2017. The site design and lot layout enable the units to front onto streets, paseos, and/or parks. No units back onto public streets. This orientation activates the streetscapes and common areas (parks and paseos) by facing these public spaces with building entries that provide visual interest and pedestrian level details. For example, the few units facing the pocket parks provide "eyes" on these spaces, enhancing security. The single-family homes provide units with varying massing and three architectural styles. The lot layout is consistent with the Neighborhood Plan's intent to provide a residential development that is visually interesting, architecturally diverse, and consistent with the 2017 approval.

Public Services

The number of units in this Project is not changing. Thus, adequate fire and police protection services will be provided consistent with the 2017 approval. City water services are already in place for the neighboring industrial development and would accommodate the project. The project incorporates bioretention swales to provide water quality treatment and control storm water runoff, consistent with City policies and permitting requirements The project is consistent with the 2017 approval and will have adequate public services.

Trash Collection

The Trash Service Exhibit demonstrates that there will be space for each unit to set out three bins (garbage, organics, and recyclables) next to their garage or along the street without affecting on-street parking. Given that the Homeowner's Association will maintain the on-site landscaping, resident use of the organics bins is expected to be minor. Livermore Sanitation, the City's solid waste franchisee, reviewed the trash

collection plan and confirmed that it is sufficient for truck turning and solid waste collection purposes.

Development Agreement Amendment

The purpose of Development Agreement 17-002 and Development Agreement Amendment 24-001 is to provide certainty with respect to the entitlement process, conditions of approval, impact fees to be paid by the Developer, implementation of City policies, and the terms negotiated in the settlement agreement between the property owner and City. In addition, in order to provide public benefits, the developer will provide financial contributions towards off-site trail, consistent with the 2017 approval.

Development Agreement 17-002 implemented a pedestrian bridge that was envisioned in the Neighborhood Plan and codified in Planned Development 16-004. Due to the development of the bridge becoming infeasible, the Developer applied for Development Agreement Amendment 24-001 to remove the pedestrian bridge requirement, replace the landing areas with pocket parks, and contribute in-lieu fees in place of the bridge. Development Agreement Amendment 24-001 establishes an in-lieu contribution of $2,000,000 to be split evenly between the Community Benefit Fund and Social Opportunity Endowment Fund. The contribution will be spread over three payments tied to final map and building permit milestones.

Planned Development

Planned Development 16-004 establishes permitted uses and development standards to implement the Neighborhood Plan. The Neighborhood Plan requires a zoning amendment to Planned Development 16-004 to allow three stories and remove the pedestrian bridge requirement. The Planned Development District requires compliance with the TDC Ordinance. Consistent with the 2017 approval, all requirements of the Planned Development have been met.

<u>Site Plan and Design Review</u>

The Arroyo Vista Neighborhood Plan's Design Standards and Guidelines encourage and guide creativity, flexibility, and variety while providing specific requirements and recommendations for landscaping, architectural details, and treatments. The project's site plan and design elements are consistent with the Neighborhood Plan's Design Standards and Guidelines, as well as the Livermore Development Code and General Plan. As discussed under Site Plan above, the site plan creates a compatible, human-scaled environment that is both attractive and inviting. The following sections focus on the neighborhood design and the architecture of the proposed Single-Family Detached houses.

Neighborhood Design

Key design features include creating an attractive architectural street facade along the entire perimeter of the site, along paseos, and/or pocket parks. Orienting units to front onto streets, paseos, and/or pocket parks creates an interesting public face for the neighborhood by

activating the streetscape and avoids creating an isolated enclave of housing. The project complies by orienting the units towards the adjacent existing public streets (rather than facing inward). The paseos provide a safe and inviting extension of sidewalks, consistent with the design principles under 4.1.4.3. The streetscape helps establish a strong identity for the neighborhood (4.1.7). The design is consistent with the 2017 approval and meets all standards.

Edges

The Neighborhood Plan provides standards and guidelines on public and private edges (4.1.2.2). The project has been designed for consistency with these provisions. For example, the project would replace the existing chain-link fence along the site boundary of the Zone 7 channel with a three-foot tall concrete split rail fence. This design is consistent with the Neighborhood Plan guidelines and the 2017 approval for the interface to be kept as open and natural as possible, with fencing that is rural in character and encourages views along and across the channel. In addition, the units adjacent to the neighborhood parks would be separated from the active play areas by a landscape border, accent trees, and pathways.

Building Standards

This project establishes Planned Development 24-001 to allow flexibility for building heights of up to 45 feet and three stories. The proposed development is consistent with the Neighborhood Plan's standards and guidelines and the 2017 approval for individual building prototypes, setbacks, and building separations. The single-family detached houses are three stories and up to 45 feet tall, which is compatible with the surrounding residential buildings of three stories and up to 45 feet tall.

Under the Neighborhood Plan, front setbacks are measured from the back of sidewalk or pathway (if along a paseo). The minimum lot size and setback requirements for small lot single-family detached homes are summarized in Section 4.1.5.1 of the Neighborhood Plan.

The proposed development complies with the minimums for building separations along paseos (4.1.3.1) Specifically, the side yard separation between units is 10 feet minimum under the Neighborhood Plan and PD24-001.The development also complies with the minimum distance between garage faces along alleys of 32 feet. These separations are greater than those provided at similar developments, as shown in the table below.

Massing and Scale

The proposal's massing plan demonstrates the distribution of architectural styles and plan types throughout the site. The single-family detached houses products, at three stories, are in the northwestern portion of the site. The single-family product is detached, which helps to reduce the bulk and massing providing a transition with the single-story commercial buildings along First Street and within the adjacent business park to the north.

At the individual building scale, massing is subdivided and broken down by porches, balconies, and base treatments to create a human scale. For example, a variety of roof forms, heights, and covered porches that lead to distinct entries for each unit. Corner units provide wrapped porches to reduce the visual verticality in prominent locations and help to

activate the streetscape. In addition, trees are used strategically to reduce the visual verticality. The modified design is consistent with the intent of the 2017 approval and meets all standards.

Architecture

The Neighborhood Plan sets forth fundamental design principles on architecture and specific Design Standards and Guidelines on single story elements, recessed or projecting second story wall planes, rear architectural treatment (windows, doors, and ornamentation), roof form, corner lot treatment, garage placement and setbacks, architectural details, and green development. The proposed architectural styles include Craftsman, Ranch, and Prairie consistent with the 2017 approval.

As shown on the Architectural Site Plan, there is variation in architectural style along the neighborhood streets. The proposal utilizes natural looking colors and materials that will create a harmonious, yet varied streetscape. The proposed designs include decorative elements such as balconies, corbels, and shutters.

The project complies with the fundamental design principles and specific standards and guidelines related to architecture.

Landscape Design

The Neighborhood Plan calls for landscaping that is healthy, attractive, and sustainable. It should provide a common thread, with a mix of linear spaces, neighborhood greens, landscaped plazas, and gardens. Plan guidelines include use of native and drought- tolerant plant materials, contextual to the City of Livermore; colorful, highly accented, and flowering plantings; increased trees and other plantings for emphasis at entryways; and shade trees along on-site site pathways and sidewalks.

The proposed landscape plan, including the plant palette, conforms to these guidelines. The proposed development's landscaping will enhance the pedestrian scale of the buildings, soften the built environment, and create usable pedestrian areas. Plant materials will be utilized in an orderly manner that defines the site's spatial organization and function.

The homeowner's association will be responsible for maintaining all landscaping on-site and within the public right-of-way adjacent to the site. This includes front yard landscaping (except for where enclosed within a fence).

The landscape plan must comply with the Water Efficient Landscape Ordinance, as a condition of approval. The preliminary data on water usage in the proposed landscape plan indicates compliance with the ordinance.

Other Features

The project is consistent with the Neighborhood Plan's standards and guidelines on lighting, fences and walls, utilities, and solid waste management (Section 4.1.4). Side yard fencing for

the single-family detached units would be six feet tall consistent with the 2017 approval.

The above ground utilities along streets will be screened with vegetation, and the air conditioning units for the residential buildings will be screened with wood enclosures. This design will minimize visual impacts. To ensure the vegetation provide sufficient year- round screening, staff makes the following recommendation.

> **Recommended Condition:** Prior to Improvement Plan approval, the improvements plans should show that Evergreen and shrub plantings shall be installed around the above-ground utilities to adequately screen them.

LIVERMORE CALIFORNIA

City of Livermore

ATTACHMENT 2

Notes:

666.7 0 333.33 666.7 Feet

NAD_1983_2011_StatePlane_California_III_FIPS_0403_
Livermore IT, GIS Services

Scale: 1: 4,000

This map is based on City of Livermore GIS Information and reflects the most current information at the time of this printing. The map is intended for reference purposes only and the City and its staff is not responsible for errors.

Prepared:

7/1/2024 1:03:37 PM

LIVERMORE
CALIFORNIA

DRAFT PLANNING COMMISSION
JULY 16, 2024

REGULAR MEETING

1. CALL TO ORDER – The meeting of the Planning Commission was called to order by Chairperson Jacob Anderson at 7:00 pm, held in person at 1016 S. Livermore Avenue.

ROLL CALL – Present: Chairperson Anderson, Vice-Chairperson Yolanda Fintschenko, Commissioner Steven Dunbar, Commissioner Daniel Leary, Commissioner Tracy Kronzak.

PLEDGE OF ALLEGIANCE

2. OPEN FORUM

Chairperson Anderson opened and closed the public comment period.

3. CONSENT CALENDAR

3.1 Approval of the March 21, 2023 Planning Commission Draft Meeting Minutes.

3.3 Approval of the August 15, 2023 Planning Commission Draft Meeting Minutes.

3.5 Approval of the November 21, 2023 Planning Commission Draft Meeting Minutes.

3.6 Approval of the December 5, 2023 Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.

ON THE MOTION OF COMMISSIONER DUNBAR, SECONDED BY COMMISSIONER FINTSCHENKO AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION APPROVED THE MINUTES.

3.2 Approval of the June 6, 2023 Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.

ON THE MOTION OF COMMISSIONER KRONZAK, SECONDED BY COMMISSIONER FINTSCHENKO AND CARRIED ON A 4-0 VOTE, COMMISSIONER DUNBAR ABSTAINING, THE PLANNING COMMISSION APPROVED THE MINUTES.

3.4 Approval of the November 7, 2023 Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.

ON THE MOTION OF COMMISSIONER DUNBAR, SECONDED BY COMMISSIONER KRONZAK AND CARRIED ON A 4-0 VOTE, COMMISSIONER FINTSCHENKO ABSTAINING, THE PLANNING COMMISSION APPROVED THE MINUTES.

4. PROJECT REVIEW – NONE.

5. PUBLIC HEARINGS

5.1 Hearing to consider a request for a Conditional Use Permit to allow an existing Assisted Living Residential Care Facility at 3646 East Avenue to expand its capacity from six to nine clients.

Recommendation:
Staff recommends the Planning Commission adopt resolutions finding that the project is exempt under the California Environmental Quality Act (CEQA) Section 15301 (Existing Facilities) which exempts negligible expansion of use and interior alterations of existing facilities, and approving Conditional Use Permit (CUP) 24-003, subject to the attached Conditions of Approval.

Planning Intern Emily Gnecco presented the staff report.

Chairperson Anderson opened and closed the public comment period.

In response to Commission questions, Planning Intern Gnecco explained the proposed driveway; no concerns regarding runoff; history of ADA parking; onsite parking; parking standards; and condition to retain existing landscaping.

The Commission indicated it could make the required findings.

ON THE MOTION OF COMMISSIONER FINTSCHENKO, SECONDED BY COMMISSIONER KRONZAK AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION ADOPTED THE FOLLOWING RESOLUTIONS:

Resolution 22-24 Finding Conditional Use Permit (CUP) 24-003 for a Residential Care Facility to be exempt from the provisions of The California Environmental Quality Act (CEQA).

Resolution 23-24 Approving Conditional Use Permit (CUP) 24-003 for the Residential Care Facility Project.

5.2 Hearing to consider a request for a Specific Plan Amendment, Planned Development, Site Plan Design Review Modification, and Development Agreement Amendment to modify the 2017 approval for the Arroyo Vista Residential Project to increase the height of the single-family detached units from two stories to three stories, remove a pedestrian bridge requirement, and secure community benefits including pocket parks and a financial contribution.

Recommendation:
Staff recommends the Planning Commission adopt a resolution recommending the City Council approve Site Plan Design Review Modification (SPDRM) 24-002, Planned Development (PD) 24-001, Specific Plan Amendment (SPPA) 24-002 and Development Agreement Amendment (DAA) 24-001, subject to conditions.

Assistant Planner Kaitlyn Harrison presented the staff report.

In response to Commission questions, Staff explained the aerial easement and City's maintenance responsibility; cost to maintain the bridge; Las Positas Road widening project;

Chairperson Anderson opened the public comment period.

Michael Keaney, Trumark Homes, concurred with Staff's recommendation and initially proposed conditions of approval. He indicated acceptance of the proposed conditions related to the required bench on the Arroyo Vista Trail on Zone 7 property; accessible path of travel from the new park to the trail, with the addition of a note that it be to the extent feasible. He discussed the intent to build the bridge but challenges with public-private component.

David Lund thanked staff for the explanation of the bridge issue.

Chairperson Anderson closed the public comment period.

Commissioner Dunbar received clarification from staff that the architecture met the design standards; four-foot rail fence and removal of existing fence along the Arroyo; public trail on west side; build out of Las Positas Road; and Social Opportunity Endowment Fund. He expressed concern with losing the opportunity for community connections and bike infrastructure.

Commissioner Leary confirmed that the Ranch style was compliant with Design Standards; neighborhood park requirements; funds for pedestrian bridge; Community Benefit Fund; payment for offsite trail improvements; building height increase; and electric services.

Commissioner Kronzak confirmed the affordable housing and in lieu fees; Homeowners Association (HOA) enforcement of garage parking; and indicated the need to notify homeowners of Midtown development.

Vice-Chairperson Fintschenko obtained clarification on the transfer of development credit; additional conditions and caveat if unfeasible.

The applicant confirmed they were agreeable to the conditions with the caveat that Conditions 2 and 3 could be waived if determined to be infeasible by the Community Development Director.

In response to **Commissioner Kronzak**, Staff explained the ability to waive ADA compliant connections through special exemption requests.

Chair Anderson suggested blocks of consistent styles and discussed the need to articulate the first residence visible from public areas at the corner of Arroyo Vista and Las Positas.

The Commission discussed the style, massing and density. The applicant offered to improve the design elements on the home at the corner of Arroyo Vista and Las Positas.

Commissioner Dunbar expressed concern about access to Safeway and the need to protect the bikeway; traffic improvements and bicycle access and trail connection; truck traffic noise; and curb radius and directional curb ramps.

ON THE MOTION OF VICE-CHAIR FINTSCHENKO, SECONDED BY COMMISSIONER KRONZAK AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION ADOPTED THE FOLLOWING RESOLUTIONS, SUBJECT TO THE AMENDED CONDITIONS OF APPROVAL:

- Prior to Final Map approval, the applicant shall provide plan showing and installing a pedestrian path connecting the pocket park on the west site of the Arroyo Seco Channel trail as approved by the Director. The applicant will be responsible for grading in such a away that does not inhibit the feasibility of this design as the design will be finalized in the Final Map and Improvement Plan stage. The Community Development Director can waive this condition if construction of the pedestrian path becomes infeasible.
- Prior to the Final Map approval, the applicant shall design and provide two benches along the 5’ path to the west of the Arroyo Seco Channel trail. The Community Development Director can waive this condition of installation of the two benches becomes infeasible.

- The unit at the corner of Arroyo Vista and Las Positas (lot #1) shall provide enhanced design elements due to the prominence of the unit's location.

Resolution 24-24 Recommending that the City Council adopt the 2024 Addendum to the 2007 Arroyo Vista Neighborhood Plan Initial Study/Mitigated Negative Declaration, as amended in 2017 in accordance with the California Environmental Quality Act

Resolution 25-24 Recommending that the City Council approve Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development Rezoning (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 for the Arroyo Vista Neighborhood Development

6. MATTERS FOR CONSIDERATION - NONE

7. MATTERS INITIATED BY PLANNING COMMISSION AND STAFF

Commissioner Dunbar requested the trail crossing to Contractors Place be conditioned to follow the trail design guidelines.

8. ADJOURNMENT – at 9:12 pm to a Regular Planning Commission Meeting on Tuesday, August 6, 2024, at 7:00 pm, Civic Center Library, Community Rooms A & B, 1188 S. Livermore Avenue.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ADOPTING THE ARROYO VISTA NEIGHBORHOOD PROJECT 2024 ADDENDUM TO THE ARROYO VISTA NEIGHBORHOOD PLAN INITIAL STUDY MITIGATED NEGATIVE DECLARATION [IS/MND], AS AMENDED BY THE 2017 ADDENDUM FOR THE ARROYO VISTA RESIDENTIAL DEVELOPMENT

On July 2, 2007, the Livermore City Council adopted Resolution No. 2007-063, adopting California Environmental Quality Act Findings, a Mitigation Monitoring and Reporting Program, and certifying the Initial Study Mitigated Negative Declaration for the Arroyo Vista Neighborhood Plan Initial Study/Mitigated Negative Declaration ("2007 IS/MND") (State Clearinghouse No. 2007052028).

On January 27, 2016, the City of Livermore ("City") received an application from Summerhill LLC to develop the approximately 29-acre vacant parcel located at the southeast corner of Arroyo Vista and Las Positas Road intersection with a residential development project.

In June 2017, the City prepared an Addendum to the Previous 2007 IS/MND ("Addendum") pursuant to the California Environmental Quality Act ("CEQA"). On July 24, 2017, the Livermore City Council adopted Resolution No. 2017-135 adopting California Environmental Quality Act Findings, a Mitigation Monitoring and Reporting Program, and certifying an Addendum to the 2007 IS/MND ("2017 Addendum") for the Arroyo Vista Neighborhood Plan (State Clearinghouse No. 2007052028). The 2007 IS/MND and 2017 Addendum are referred to collectively herein as the Previous IS/MND.

On January 25, 2024, the City received an application from Trumark, LLC ("Applicant") for the Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The Project would modify the 2017 approved development for approximately 15-acres of vacant land located southeast of the Arroyo Vista and Las Positas Road intersection, implementing the Arroyo Vista Neighborhood Plan. The modified Project would be increased from two stories to three stories and allow a height of up to 45 feet on the 86 for sale single-family residential homes. The Project also includes a Development Agreement Amendment between the City and Developer, Planned Development rezoning, and Specific Plan Amendments. The Development Agreement Amendment removes the bridge requirement that became infeasible due to long-term maintenance issues. In place of the bridge landings, the Project proposes two pocket parks. Additionally, an in-lieu contribution of $2,000,000 would be provided to the Community Benefit Fund and the Social Opportunity Endowment Fund. The Planned Development rezoning removes the bridge requirement as well and allows for building heights of up to 45 feet and 3 stories. Finally, the Specific Plan amendments removes the bridge requirement from the Arroyo Vista Neighborhood Plan.

On July 16, 2024, at a duly noticed public hearing, the Planning Commission considered the Project, heard public testimony, made the necessary findings, and adopted Planning Commission resolution No. 24-24, attached hereto as Exhibit A, recommending the City Council adopt the Arroyo Vista Neighborhood Project Addendum to the Arroyo Vista Neighborhood Plan IS/MND, as amended by the 2017 Addendum.

On September 9, 2024, the City Council held a duly noticed public hearing to consider the Project, Planning Commission and staff recommendations, all public comments and testimony, and findings.

Together with this resolution, the City Council concurrently considered resolutions for: Site Plan Design Review Modification (SPDRM) 24-002; Specific Plan Amendment (SPPA) 24-002; and ordinances for: 1) the Project's Development Agreement Amendment (DAA) 24-001 application; and 2) the Project's Development Code Amendment (PD) 24-001 application.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the City Council reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, that the City Council of the City of Livermore has considered the findings made in Planning Commission Resolution No. 24-24, attached hereto as Exhibit A, and the City Council hereby adopts the same findings by this reference and incorporates them as their own findings as part of this resolution, and as described below:

The Addendum indicates that no subsequent or supplemental Initial Study/ Mitigated Negative Declaration is required, under the provisions of the California Environmental Quality Act per CEQA Guidelines section 15162, given that none of the following conditions exist:

1. Substantial changes are proposed in the project which will require major revisions of the Previous 2007 IS/MND to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

   Response: The Addendum analyzes potential project impacts on each of the environmental factors evaluated in the Previous IS/MND. The Addendum analyzes potential Project impacts, including impacts from amending the project to allow building heights of 45 feet and 3 stories and removing the bridge requirement.

Substantial changes are not proposed to the Neighborhood Plan nor have substantial changes occurred that would require major revisions to the Previous IS/MND prepared for the Neighborhood Plan. Substantially more severe impacts beyond those identified and analyzed in the Previous IS/MND would not occur as a result of the proposed Project. For example, the Project will still provide a residential development on an approximately 15-acre site, consistent with the 2017 approval. All contemplated land uses in the Neighborhood Plan are still provided, like residential and open space. The quantities of residential and open space uses are within the ranges contemplated by the Neighborhood Plan. No new land uses or operations have been introduced into the Neighborhood Plan or the Project site that would cause new significant impacts or incompatibilities.

Overall, the proposed Project would result in no new impact or mitigation information of substantial importance that would generate new, more severe impacts or require new mitigation measures compared to those identified for the original project in the Previous EIR. As such, the proposed project would not result in conditions identified in CEQA Guidelines Section 15162 requiring supplemental environmental review or a Subsequent IS/MND, and these are therefore not required for the proposed Project.

For these reasons, the City concludes that the analyses conducted, the conclusions reached, and the mitigation measures adopted in the Previous IS/MND would not be substantially changed for the proposed Project. The proposed Project would remain subject to all previously adopted mitigation measures and uniformly applicable development policies included in the Previous IS/MND for the Neighborhood Plan. Based on the above analysis, no subsequent action under CEQA Guidelines Section 15162 is required.

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the Previous IS/MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

   Response: No substantial changes are proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the Previous IS/MND due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects.

   The Project site is still located on approximately 15 acres in the same location identified in the Neighborhood Plan, consistent with the 2017 approval. No new natural hazards have been identified onsite, and the Project provides the uses and densities contemplated in the Neighborhood Plan.

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Previous IS/MND was certified as complete or the mitigated negative declaration was adopted, shows any of the following:

    a. The project will have one or more significant effects not discussed in the Previous IS/MND or mitigated negative declaration;

    b. Significant effects previously examined will be substantially more severe than shown in the Previous IS/MND;

    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

    d. Mitigation measures or alternatives which are considerably different from those analyzed in the Previous IS/MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Response: There is no "new information of substantial importance" as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, the Previous IS/MND is adequate, and this evaluation serves as an Addendum to the City of Livermore Arroyo Vista Neighborhood Plan Initial Study/Mitigated Negative Declaration [IS/MND] (2007 IS/MND) and Supplemental Environmental Impact Report (2017), State Clearinghouse No. 2007052028, collectively referred to as the Previous EIR.

No new operational, use, or natural hazard impacts have been identified. For example, the proposed would not involve any changes to the anticipated land uses associated with the site and would result in the same area of disturbance and number of units, the same level of air pollutant emissions, energy usage, and noise associated with both construction and operation of the proposed project would occur as what has already been anticipated for the project site and analyzed in the 2007 IS/MND, as amended in 2017. For these reasons, there is no new information of substantial importance that would cause any additional or worsened significant impacts.

BE IT FURTHER RESOLVED that, based upon the City Council's own independent review of the Record Evidence and considerations, the City Council hereby adopts the *Arroyo Vista Neighborhood Project Addendum* ("Addendum") dated May 2024, and finds that no subsequent or supplemental Initial Study/Mitigated Negative Declaration is required, under the provisions of the California Environmental Quality Act per CEQA Guidelines section 15162, for the Arroyo Vista Residential Development.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the Planning Manager to file a Notice of Determination with the Alameda County Clerk if the Project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, in Livermore, California. This resolution shall be effective upon adoption by the City Council.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Planning Commission Resolution No. 24-24
Exhibit B – 2017 Addendum
Exhibit C – MMRP
Exhibit D – Arroyo Vista Neighborhood Plan Addendum (May 2024)

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT THE 2024 ADDENDUM TO THE 2007 ARROYO VISTA NEIGHBORHOOD PLAN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION, AS AMENDED IN 2017 IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Arroyo Vista Development

On July 2, 2007, the Livermore City Council adopted Resolution No. 2007-063, adopting California Environmental Quality Act Findings, a Mitigation Monitoring and Reporting Program, and certifying the Initial Study/Mitigated Negative Declaration ("IS/MND") for the Arroyo Vista Neighborhood Plan IS/MND ("2007 IS/MND") (State Clearinghouse No. 2007052028).

On January 27, 2016, the City received an application from LLC (Summerhill) to develop the approximately 29-acre vacant parcel located at the southeast corner of Arroyo Vista and Las Positas Road intersection with a residential development project.

In June 2017, the City prepared an Addendum to the Previous IS/MND ("Addendum") pursuant to the California Environmental Quality Act ("CEQA"). On July 24, 2017, the Livermore City Council adopted Resolution No. 2017-135 adopting California Environmental Quality Act Findings, a Mitigation Monitoring and Reporting Program, and certifying an Addendum to the IS/MND ("2017 Addendum") for the Arroyo Vista Neighborhood Plan (State Clearinghouse No. 2007052028). The IS/MND and 2017 Addendum are referred to collectively herein as the Previous IS/MND.

On January 25, 2024, the City received an application from the Trumark, LLC ("Applicant") for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The Project would develop approximately 15-acre vacant land located southeast of the Arroyo Vista and Las Positas Road intersection, implementing the Arroyo Vista Neighborhood Plan. The modified Project includes 86 for sale single-family residential homes, two approximately 0.2-acre neighborhood parks with an additional approximately 0.5 acre of pocket parks, street improvements, street trees, and utility infrastructure. The Project also includes a Development Agreement Amendment between the City and Developer, Planned Development rezoning, and Specific Plan Amendments. The Development Agreement Amendment removes the bridge requirement that became infeasible due to liability issues. In place of the bridge landings, the Project proposes two pocket parks. Additionally, an in-lieu contribution of $2,000,000 would be provided to the Community Benefit Fund and the Social Opportunity Endowment Fund. The Planned Development reasoning removes the bridge requirement as well and allows for building heights of up to 45 feet and 3 stories. Finally, the Specific Plan amendments removes the bridge requirement.

On July 16, 2024, the Planning Commission held a duly noticed public hearing to consider the Project and staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Livermore that prior to taking action on the Project, and at a properly noticed public meeting, the Planning Commission reviewed written and oral staff reports, conducted a public hearing on the Project, took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, by the Planning Commission that the 2024 Addendum indicates that no subsequent or supplemental IS/MND is required, under the provisions of the California Environmental Quality Act Guidelines section 15162, given that none of the following conditions exist:

1. Substantial changes are proposed in the project which will require major revisions of the Previous IS/MND or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

   Response: The Addendum analyzes potential project impacts on each of the environmental factors evaluated in the Previous IS/MND. As discussed in the staff analysis under the subheading "Environmental Determination" the Addendum analyzes Aesthetics, Air Quality, Energy, Noise, Green House Gas Emissions, Transportation, Land Use, Planning, Population, Housing, Public Services, Utilities, Hydrology, and Water Quality. The Addendum analyzes potential Project impacts, including impacts from increasing the allowable building heights to 45 feet and allowing 3 stories as well as providing pocket parks in place of the bridge landings.

   Substantial changes are not proposed to the Arroyo Vista Neighborhood Plan nor have substantial changes occurred that would require major revisions to the Previous IS/MND, as amended in 2017, prepared for the Neighborhood Plan. Substantially more severe impacts beyond those identified and analyzed in the Previous IS/MND, as amended in 2017, would not occur as a result of the Project. For example, the Project will still provide a residential development on an approximately 15-acre site. All contemplated land uses in the Neighborhood Plan are still provided, like residential and open space. The quantities of residential and open space uses are within the ranges contemplated by the Neighborhood Plan. No new land uses or operations have been introduced into the Neighborhood Plan, or the Project site, that would cause new significant impacts or incompatibilities.

   Overall, the Project would result in no new impact or mitigation information of substantial importance that would generate new, more severe impacts or require new mitigation measures compared to those identified for the original project in the Previous IS/MND. As such, the Project would not result in conditions identified in *CEQA*

Guidelines Section 15162 requiring supplemental environmental review or a Subsequent IS/MND, and these are therefore not required for the proposed Project.

For these reasons, the City concludes that the analyses conducted, the conclusions reached, and the mitigation measures adopted in the Previous IS/MND would not be substantially changed for the Project. The Project would remain subject to all previously adopted mitigation measures and uniformly applicable development policies included in the Previous IS/MND for Neighborhood Plan. Based on the above analysis, no subsequent action under *CEQA Guidelines* Sections 15162 is required.

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous IS/MND or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

   Response: No substantial changes are proposed in the Project and there are no substantial changes in the circumstances under which the Project will be undertaken that will require major revisions to the Previous IS/MND due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects.

   The Project site is still located on approximately 15 acres in the same location identified in the Neighborhood Plan. No new natural hazards have been identified onsite, and the Project provides the uses and densities contemplated in the Neighborhood Plan.

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous IS/MND was certified as complete or the negative declaration was adopted, shows any of the following:

   a. The project will have one or more significant effects not discussed in the previous IS/MND or negative declaration;

   b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;

   c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

   d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Response: There is no "new information of substantial importance" as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, the Previous IS/MND is adequate, and this evaluation serves as an Addendum to an Addendum to the City of Livermore Arroyo Vista Neighborhood Plan (IS/MND) and Addendum (2017 IS/MND, as Amended), SCH #2007052028, collectively referred to as the Previous IS/MND.

No new operational, use, or natural hazard impacts have been identified. Fire Protection would be provided by the Livermore-Pleasanton Fire Department, and existing facilities are sufficient to serve the Project. For these reasons, there is no new information of substantial importance that would cause any additional or worsened significant impacts.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of Livermore, based upon its own independent review of the Record Evidence and considerations, has considered the Previous IS/MND, and recommends the City Council: 1) determine that no subsequent Negative Declaration is required given that substantial project and circumstantial changes have not occurred and no new information of substantial importance as set forth in CEQA Guidelines 15162 exists, and 2) adopt the June 2024 Addendum to the Previous IS/MND, as amended, in accordance with CEQA.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore recommends that the City Council direct the Planning Manager to file a Notice of Determination with the Alameda County Clerk, if the Project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department, 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Finstchenko, seconded by Commissioner Kronzak, the foregoing Resolution was passed and adopted at the Planning Commission meeting of July 16, 2024, by the following vote:

AYES: ANDERSON, DUNBAR, FINTSCHENKO, KRONZAK, LEARY.
NOES: NONE.
ABSENT: NONE.

Jacob Anderson, Chairperson

Stephen Riley

By Stephen Riley, Planning Manager
Secretary to the Planning Commission

ADDENDUM
TO THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION REPORT FOR THE ARROYO VISTA NEIGHBORHOOD PROJECT

June 2017

1.0 PROJECT BACKGROUND

The proposed Arroyo Vista Residential Project represents implementation of the Arroyo Vista Neighborhood Plan. The City of Livermore, as the Lead Agency, approved the Arroyo Vista Neighborhood Plan and adopted the associated Initial Study/Mitigated Negative Declaration (IS/MND) on July 2, 2007. The Neighborhood Plan established a framework for the development of 400 to 514 dwelling units on a 28-acre site located at the southeast corner of Los Positas/Arroyo Vista intersection (see Figure 1.0-1).

This environmental document is an Addendum to the adopted Arroyo Vista Neighborhood Plan IS/MND. For purposes of this document, the approved Arroyo Vista Neighborhood Plan is the "approved project" analyzed in the adopted IS/MND, while the proposed Arroyo Vista Residential Project is the "modified project" addressed in this Addendum.

1.1 PURPOSE OF ADDENDUM

The California Environmental Quality Act (CEQA) recognizes that between the date an environmental document is certified and the date the project is fully implemented, one or more of the following changes may occur: 1) the project may change; 2) the environmental setting in which the project is located may change; 3) laws, regulations, or policies may change in ways that impact the environment; and/or 4) previously unknown information can arise. Before proceeding with a project, CEQA requires the Lead Agency to evaluate these changes to determine whether or not they affect the conclusions in the environmental document.

The CEQA Guidelines Section 15162 states that when an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the Lead Agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete of the Negative Declaration was adopted, shows any of the following:

    a. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
    b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the Lead Agency shall determine whether to prepare a subsequent negative declaration or addendum, or no further documentation. CEQA Guidelines Section 15164 states that the Lead Agency shall prepare an addendum to an adopted negative declaration if none of the conditions described in 15162 (see above) calling for the preparation of a subsequent EIR or negative declaration have occurred.

1.2 DETERMINATION

Since the adoption of the Arroyo Vista Neighborhood Plan IS/MND, minor changes to the project and updates to the environmental conditions and regulatory framework have occurred:

- The northwestern portion of the site was previously occupied by a single-family residence, which has since been demolished.
- A specific development has been proposed to implement the Neighborhood Plan. The modifications to the approved project include fewer dwelling units and changes to the Las Positas Road improvements.
- New regulations on cultural resources and greenhouse gas emissions (climate change) have gone into effect.
- Additional studies were prepared on air quality, biological resources, greenhouse gas emissions, noise, and transportation to update the understanding of existing conditions.

The City has determined that these changes to the project and its circumstances do not warrant preparation of a subsequent EIR or negative declaration pursuant to CEQA Sections 15162 and 15164, and only minor technical changes and additions are necessary to update the previously adopted IS/MND. Therefore, the City has prepared this Addendum to analyze the changes to the project and regulatory setting, as compared to the previously analyzed project.

To support this determination, this Addendum provides the following information and substantial evidence regarding the project and its environmental review:

- Project Description (Section 2.0). This section describes the project, including a description of the changes that have occurred since adoption of the Arroyo Vista Neighborhood Plan IS/MND (see Section 2.0, *Description of the Proposed Changes to the Project*).
- Environmental Analysis (Section 3.0). This section includes an environmental analysis pursuant to CEQA Sections 15162 and 15164 to provide the City with the factual basis for determining whether any changes in the project, any changes in the circumstances, or any new information since the Arroyo Vista Neighborhood Plan IS/MND was certified require further environmental review or preparation of a Subsequent MND or Addendum to the MND.

The Arroyo Vista Neighborhood Plan IS/MND continues to serve as the primary document addressing the environmental impacts of the approved and modified project under CEQA, as updated by this document. The modified project is subject to all application mitigation measures from the adopted IS/MND, as conditions of approval, unless where noted in this Addendum.

2.0 DESCRIPTION OF THE PROPOSED CHANGES TO THE PROJECT

Section 2.1 describes the project as approved in 2007 and analyzed in the IS/MND. Section 2.2 describes the currently proposed changes to the previously approved project.

2.1 SUMMARY OF PREVIOUSLY APPROVED PROJECT

The Arroyo Vista Neighborhood Plan establishes the basic framework for residential development of the 28-acre site, located at the southeast corner of the Los Positas/Arroyo Vista intersection. The project site is bisected by the Arroyo Seco channel, which is owned and maintained by the Zone 7 water district. The site is designated as Urban High Residential (UH-3) under the General Plan, which permits a gross residential density of 14-18 dwelling units per acre (du/ac). This designation and the Neighborhood Plan allow the construction of 400 to 514 dwelling units on the project site.

The Neighborhood Plan established requirements on the mix of housing types, open space, circulation, access points, parking, architectural design, and infrastructure improvements. The Arroyo Vista Neighborhood Plan IS/MND analyzed two conceptual development scenarios as examples of how to implement the framework. The first scenario, referred to as Plan A, would develop the property with residential uses at a density of approximately 14 du/ac. The second scenario, referred to as Plan B, would develop the property at a density of approximately 17 du/ac.

Under Plan A, the project included up to 402 residential units, including 87 single-family houses and 315 townhouses, and approximately 8.5 acres of open space. Plan B included 495 residential units, including 170 multi-family residences and 325 townhouses, with approximately 9.3 acres of open space. (See Figures 2.1-1 and 2.1-2 for the conceptual site plans of Plan A and Plan B)

Based on the Neighborhood Plan, the project analyzed in the IS/MND included a multi-use trail on along the west side of the Arroyo Seco channel and a pedestrian bridge over the channel to connect each side of the site. Improvements to Las Positas Road along the project frontage included: widening from two to four travel lanes, installing traffic signals at the intersections with Arroyo Vista and Contractors Way, and adding a landscaped median, on-street parking on the north side of the street, providing bicycle lanes on both sides of the roadway, and a new bus shelter on Las Positas Road adjacent to the site.

For some of the analyses, the IS/MND for the Neighborhood Plan tiered from the Environmental Impact Report (FEIR) prepared for the City of Livermore General Plan and Downtown Specific Plan, certified in 2003. The IS/MND concluded that implementation of the Neighborhood Plan would result in a total of three significant impacts in the subject areas of transportation, biology, and noise. Mitigation was identified to reduce all impacts to a less-than-significant level.

2.2 MODIFIED PROJECT DESCRIPTION

The modified project includes construction of 86 single-family detached houses, 249 single family attached townhomes, and 100 multi-family flats to be sold as condominiums. The combined 435 dwelling units would equate to approximately 15 du/ac (gross). Of the 435 dwelling units, 195 units would be located on the western parcel and 240 units would be located on the eastern parcel. (See Figure 2.2-1 – Modified Site Plan) The single-family detached houses would have a maximum

height of 30 feet (two stories), while the townhouses and condominium flats would have a maximum height of 45 feet (three stories).

The site would be developed with about 8.3 acres of open space. The western parcel includes a 0.5-acre neighborhood park that includes a play area, pergola, picnic tables, community building (clubhouse), outdoor kitchen, outdoor fireplace, seating, and pool area. An approximately 0.20-acre neighborhood park is proposed on the eastern parcel. This neighborhood park would contain a barbeque area, community garden, and play area.

The project proposes approximately 1,044 parking stalls. Each residential unit would have either a two-car garage or a tandem garage, for a combined total of 870 parking stalls. In addition to the private residential parking, the western parcel would include 114 guest parking stalls and the eastern parcel would have 60 guest parking stalls. Vehicular access to the project site would be provided from four driveways, one on Bennett Drive, one on Arroyo Vista, and two on Las Positas Road.

The project includes the following improvements:

- new public streets, private alleys, and pedestrian paths to provide on-site circulation,
- construction of a multi-use trail along the west side of Arroyo Seco,
- an eight-foot wide pedestrian bridge across the Arroyo Seco channel,
- installation of traffic signals at the intersections of Las Positas Road/Arroyo Vista and Las Positas Road/Contractors Way,
- a new bus shelter on Las Positas Road adjacent to the site,
- a trail crossing on Arroyo Vista,
- streetscape improvements along Arroyo Vista, Bennett Drive, and Las Positas Road, and
- belowground utilities and stormwater treatment facilities.

The proposed project, including the density, housing types, open spaces, parking, vehicle access, and public improvements listed above, are consistent with the Neighborhood Plan analyzed in the previously adopted IS/MND.

Compared to the approved project, the modified project does not include the widening of Las Positas Road, addition of on-street parking along Las Positas Road, or installation of a landscaped median along the project frontage.

Instead, the project may add a buffer to Las Positas Road to increase the separation between the bike lanes and the vehicle travel lanes. While not envisioned in the Neighborhood Plan, this improvement would meet the intent of the Plan to enhance Las Positas Road as a multi-modal facility. In addition, the space between the proposed sidewalk and the travel lanes of Las Positas Road (30-40 feet wide) will serve as a visual buffer for the residences, similar to the function of a landscaped median. The project would add a limited amount of on-street parking on Arroyo Vista and Bennett Drive, instead of on Las Positas Road.

3.0 ENVIRONMENTAL IMPACTS OF THE PROPOSED CHANGES TO THE PROJECT

The discussion below describes the environmental impacts of the modified 2017 project compared to the impacts of the approved 2007 project, as addressed in the Arroyo Vista Residential Project IS/MND. Also noted are any changes that have occurred in the environmental/regulatory setting that could result in new impacts or impacts of greater severity than those identified in the previously certified IS/MND. This Addendum only addresses those resource areas which would be potentially affected by the proposed changes to the approved project or regulatory setting (air quality, biological resources, cultural resources, greenhouse gas emissions, noise, and transportation.).

The proposed modifications to the approved project would not alter the analysis in the IS/MND with regard to other resource areas such as aesthetics, agricultural and forestry resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, and utilities and service systems. This is because the overall land use and development density is consistent with the approved project evaluated in the IS/MND.

3.1 AIR QUALITY

Changes that have occurred to the circumstances under which the modified project would be undertaken relevant to air quality are changes to applicable air quality regulations and thresholds since approval of the 2007 project. The approved IS/MND addressed the project's consistency with air quality standards, the exposure of sensitive receptors[1] to pollutants, climate, and odors. The following analysis addresses the potential toxic air contaminants (TAC) impacts that would result from implementation of the proposed project, as well as the project's consistency with the most recent Clean Air Plan and other applicable air quality regulations.

In March 2017, *Illingworth & Rodkin, Inc.* prepared an Air Quality Assessment to address the modified project relative to the most recent air quality standards and thresholds. A copy of this report is provided in Appendix A.

3.1.1 Findings of the Previous IS/MND

3.1.1.1 Consistency with Air Quality Standards

The City of Livermore's 2003 General Plan Final Environmental Impact Report (EIR) analyzed the potential air pollutant emissions that would be generated by build out of the General Plan. Operational criteria pollutant emissions were based on trip generation and population estimates by land use. The Final EIR concluded that the build out of the General Plan would result in criteria pollutant emissions in excess of Bay Area Air Quality Management District (BAAQMD) thresholds. No mitigation was identified to reduce the impact and the impact was determined to be significant and unavoidable.

[1] Sensitive receptors are groups of people that are more susceptible to pollutant exposure (i.e., children, the elderly, and people with illnesses). Locations that may contain a high concentration of sensitive population groups include residential areas, hospitals, daycare facilities, elder care facilities, elementary schools, and parks.

The Arroyo Vista Neighborhood Plan IS/MND was found consistent with the General Plan land use designation; therefore, it was determined that implementation of the approved project would not result in any new significant impacts beyond what was previously disclosed in the City's General Plan Final EIR and would have a less than significant impact on air quality standards.

3.1.1.2 Exposure of Sensitive Receptors to Pollutants

The Arroyo Vista Neighborhood Plan IS/MND did not identify any sources of toxic air contaminants in the immediate project area. As a result, future residents of the project site would not be impacted by long-term exposure to pollutants from nearby land uses. In addition, the project would be required to implement dust control measures during construction consistent with General Plan Policy OSC-6.1.P.1. As a result, the IS/MND concluded that the project would not significantly impact sensitive receptors on- or off-site.

3.1.2 Air Quality Impacts of the Modified Project

3.1.2.1 BAAQMD Air Quality Guidelines

Since the approval of the Arroyo Vista Neighborhood Plan IS/MND in 2007, the Bay Area Air Quality Management District (BAAQMD) updated their CEQA Air Quality Guidelines in May 2011 and republished in 2017. These thresholds, listed in Table 3.1-1 below, establish the level at which air pollution emissions are considered to cause significant environmental impacts under CEQA. This Addendum uses these thresholds to evaluate air quality impacts from the modified project.

Table 3.1-1: Thresholds of Significance Used in Air Quality Analyses

Pollutant	Construction	Operation-Related	
	Average Daily Emissions (pounds/day)	Average Daily Emissions (pounds/day)	Maximum Annual Emissions (tons/year)
ROG, NO_x	54	54	10
PM_{10}	82 (exhaust)	82	15
$PM_{2.5}$	54 (exhaust)	54	10
Fugitive Dust (PM_{10}/$PM_{2.5}$)	BMPs	None	None
TAC Risk and Hazards for New Sources and Receptors (Single Source)	Same as Operational Threshold	• Increased cancer risk of >10.0 in one million • Increased non-cancer risk of > 1.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.3 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	
TAC Risk and Hazards for New Sources and Receptors (Cumulative)	Same as Operational Threshold	• Increased cancer risk of >100 in one million • Increased non-cancer risk of > 10.0 Hazard Index (chronic or acute) • Ambient $PM_{2.5}$ increase: > 0.8 μ/m^3 [Zone of influence: 1,000-foot radius from property line of source or receptor]	

Sources: *BAAQMD* CEQA *Thresholds Options and Justification Report (2009)* and *BAAQMD CEQA Air Quality Guidelines* (dated May 2011).

3.1.2.2 Bay Area 2017 Clean Air Plan Consistency

Since the approval of the Arroyo Vista Neighborhood Plan IS/MND in 2007, BAAQMD adopted the Bay Area Clean Air Plan (CAP) in April 2017. Consistent with the GHG reduction targets adopted by the State of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

The 2017 CAP focuses on two closely-related BAAQMD goals: protecting public health and protecting the climate. The consistency of the modified project with this regional plan is primarily a question of the consistency with the population/employment assumptions utilized in developing the 2017 CAP, which were based on Association of Bay Area Governments (ABAG) Projections. The modified project is consistent with the General Plan and, as a result, is consistent with the current growth projections in the 2017 CAP.

Consistency with the 2017 CAP is also based on conformance with applicable control measures. Some of the control measures are based on the adoption of local ordinances, such as one for "cool parking" that promotes the use of cool surface treatments for new parking facilities or existing surface lots undergoing resurfacing. The City of Livermore has not adopted this particular ordinance yet. The project would be required to comply with the Green Building Standards Code (CALGreen), which would increase building efficiency over standard construction. The modified project is generally consistent with applicable control measures in the 2017 CAP, as summarized in Table 3.1-2 below.

For these reasons, the project would not conflict with or obstruct implementation of the 2017 CAP.

Table 3.1-2: Bay Area 2017 Clean Air Plan Applicable Control Measures

Control Measures	Description	Project Consistency
Transportation Control Measures		
Bicycle and Pedestrian Access and Facilities	Encourage planning for bicycle and pedestrian facilities in local plans e.g., general and specific plans, fund bike lanes, routes, paths, and bicycle parking facilities.	There are existing Class II bike lanes present on most major arterials in Livermore. Bicyclists can access the project site on Las Positas Road via the existing Class II bike lanes. The project site is currently served by Wheels, a bus service that provides local public transit to the cities of Dublin, Livermore, and Pleasanton. The project proposes to construct a new bus shelter on Las Positas Road. The project is consistent with this control measure.
Natural and Working Lands Control Measures		
Urban Tree Planting	Develop or identify an existing model municipal tree planting ordinance and encourage local governments to adopt such an ordinance. Include tree planting recommendations the Air District's technical guidance, best practices for local plans and CEQA review.	The proposed project would be required to adhere to the City's standard tree replacement ratio. Conformance with the City's tree replacement requirements would reduce the urban heat island effect. Therefore, the project is consistent with this control measure.

3.1.2.3 Construction Air Quality Impacts

The approved IS/MND addressed dust emissions resulting from construction activities. Since approval of the IS/MND, BAAQMD has adopted more stringent criteria pollutant emissions thresholds. As a result, the following analysis quantifies construction-related criteria pollutant emissions resulting from the modified project. The full air quality assessment is attached as Appendix A to this Addendum.

Emissions from construction-related automobiles, trucks, and heavy equipment are a primary concern due to release of criteria pollutants (ROG, NOx, PM10, and PM2.5), and TACs.

Construction Period Emissions – Criteria Pollutants

The air quality assessment analyzed the effects of project construction by using the California Emissions Estimator Model (CalEEMod) Version 2016.3.1. The analysis is based on a worst-case scenario where construction is assumed to occur all at once, beginning in 2018 and completed by 2020, for a total of 550 workdays. The emissions occurring during 2020 were added to the 2019 emissions so that all construction emissions are contained within a two-year period. The construction data provided by the applicant indicates that construction actually would occur over a longer period, from January 2018 to July 2021; therefore, it is assumed that the construction period would range from 550 to 900 days. Table 3.1-3 below shows the average daily emissions from criteria pollutants during the worst-case, 550-day, and proposed, 900-day construction periods.

Table 3.1-3: Construction Period Criteria Pollutant Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
Project Build Out	9.02 tons	9.72 tons	0.42 tons	0.39 tons
Average Daily Emissions *(pounds per day)*[1] – Assuming 550 to 900 days	20 to 33	21 to 35	1 to 2	1
BAAQMD Thresholds (pounds per day)	54	54	82	54
Exceed Threshold?	No	No	No	No

Note: [1]The average daily emissions were computed by dividing the total construction emissions by the number of workdays. Based on the provided construction schedule and the worst case scenario, this would range from 550 to 900 construction days.

Temporary emissions of criteria pollutants resulting from the construction of the project would not exceed the BAAQMD significance thresholds. As a result, the project would not result in a new impact or an impact of greater severity than was identified in the approved IS/MND.

Community Risk Impacts – Toxic Air Contaminants

Since approval of the previous IS/MND, BAAQMD has developed thresholds for exposure of sensitive receptors to toxic air contaminates (TACs), including diesel particulate matter (DPM) and fine particulate matter ($PM_{2.5}$). These emission types can have significant health impacts at the local level. A community risk assessment was completed to evaluate health hazards to nearby sensitive receptors resulting from TAC emissions due to project construction. Neither BAAQMD nor the City of Livermore have significance criteria for construction-related TAC impacts. As a result, the City refers to the BAAQMD threshold for the operational TAC impacts (from a single source) to

determine the significance of construction-related health risks and hazards (see Table 3.1-1 above for thresholds).

The nearest sensitive receptors are residences located approximately 635 feet northwest and 900 feet south of the project site. To quantify the effects on these residents, CalEEMod and the U.S. EPA AERMOD dispersion model were used to predict exhaust emissions from construction and the concentrations at the nearest receptors. Construction emissions were modeled as occurring daily between 7:00 AM to 4:00 PM, when the majority of construction would occur.

According to the model, the highest concentration of particulate matter would occur at a residence located southeast of the site. At this location, the maximum residential cancer risk was calculated to be 2.2 per one million cases for infant exposure and 0.04 per one million cases for an adult exposure. The maximum residential excess cancer risk would not exceed the BAAQMD significance threshold of 10 per one million cases. The maximum computed Hazard Index (HI) based on this DPM concentration would be less than 0.02, which is lower than the BAAQMD significance criterion of an HI greater than 1.0. The maximum-modeled annual $PM_{2.5}$ concentration, which is based on combined exhaust and fugitive dust emissions, would be 0.01 micrograms per cubic meter ($\mu g/m^3$), which would be below the BAAQMD significance threshold of 0.3 $\mu g/m^3$. As a result, the modified project would not result in a new impact related to TAC construction emissions.

3.1.2.3 Operational Air Quality Impacts

Operational Emissions

Since approval of the previous IS/MND, BAAQMD has developed thresholds for operational criteria pollutant emissions. The following analysis quantifies operational criteria pollutant emissions resulting from the modified project.

Operational emissions that would be generated by the project were computed using CalEEMod. Because the site is currently undeveloped, the analysis assumed that there are no existing emissions from the project site. Table 3.1-4 below provides a summary of the net-new operational emissions caused by the proposed project.

Table 3.1-4: Operational Criteria Pollutant Emissions

Scenario	ROG	NOx	PM_{10}	$PM_{2.5}$
Project Build Out	9.02 tons	9.72 tons	0.42 tons	0.39 tons
Average Daily Emissions *(pounds per day)*[1]	20	21	1 to 2	1
BAAQMD Thresholds (pounds per day)	54	54	82	54
Exceed Threshold?	No	No	No	No
Note: [1]The average daily emissions assume 365 days of operation per year				

Operational emissions resulting from the Project would not exceed the BAAQMD significance thresholds. As a result, the modified project would not result in a new impact related to operational criteria pollutant emissions.

Carbon Monoxide Emissions

The BAAQMD screening criteria indicates that a project would result in a less than significant impact to localized carbon monoxide (CO) concentrations if the project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour. The project would result in approximately 3,900 new daily traffic trips and would not cause any intersections to exceed 44,000 vehicles per hour. Therefore, the project would not result in a new air quality impact associated with CO emissions.

3.1.2.4 Existing Air Quality Conditions Affecting the Project

The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)], confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project.

While impacts to a project from existing environmental conditions are no longer considered a CEQA issue, the City of Livermore has policies and regulations that address existing conditions affecting a proposed project, such as General Plan Policy OSC-6.1.P2, which prohibits the location of sensitive receptors (e.g., residential uses, schools, hospitals) in the vicinity of industries that generate toxic emissions. The City shall also prohibit the location of industries that generate toxic emissions in the vicinity of sensitive receptors. Based on this policy, this Addendum evaluates the community risk impacts to future residents on the project site resulting from existing mobile and stationary sources of TACs in the vicinity.

This is consistent with one of the primary objectives of CEQA, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document can include information of interest even if such information is not an "environmental impact" as defined by CEQA. Therefore, this section will discuss "planning considerations" that relate to City policies pertaining to existing conditions.

Community Risk Impacts

BAAQMD recommends a 1,000-foot radius for assessing community risks and hazards from TAC mobile and stationary sources. A review of the project area indicates that six stationary sources and three mobile sources, including two local roadways (First Street and Las Positas Road) and a Union Pacific Railroad (UPRR) line, are located within 1,000 feet of the project site.

Roadways: BAAQMD's *Roadway Screening Analysis Calculator* was used to assess whether roadways with traffic volumes over 10,000 vehicles per day may have a potentially significant effect on the proposed project. The calculator uses EMFAC2011 emissions rates for the year 2014. An adjustment to the vehicle emission factor rate was made to account for a new version of the emission factor model (EMFAC2014). In addition, the predicted cancer risk was also adjusted to account for the new Office of Environmental Health Hazard Assessment (OEHHA) guidance.

The following inputs were used to model First Street and Las Positas Road using the *Roadway Screening Analysis Calculator* for Alameda County:

- First Street was modeled as a north-south roadway north of the project site with the closest potential residence located approximately 550 south of the roadway edge. The Average Daily Traffic (ADT) was determined from the City's 2012-2013 summary ADT counts. The ADT for the First Street roadway south of Southfront Road was estimated to be 31,833 vehicles. For this analysis, the ADT was rounded up to 35,000.

- Las Positas was modeled as an east-west roadway north of the project site with the closest potential residence located approximately 50 north of the roadway edge. The Average Daily Traffic (ADT) was determined from the City's 2012-2013 summary ADT counts. The ADT for the Las Positas roadway west of Vasco Road was estimated to be 10,042 vehicles. For this analysis, the ADT was rounded up to 15,000, which is consistent with the long-term (2040) estimate of traffic along the project frontage.

UPRR Line: The analysis evaluated the UPPR rail line, which includes two tracks in the project vicinity. The southern track is used by ACE commuter trains and freight trains. There are eight ACE commuter trains that use this track during the weekdays and up to eight freight trains that use the track daily. The northern track is used for freight trains. There are two freight trains that use this track daily. Emissions were calculated using EPA emission factors for locomotives and CARB adjustment factors to account for low sulfur fuels used in California.

Stationary Sources: Stationary sources within 1,000 feet of the project site were identified using the *Stationary Source Risk & Hazard Analysis Tool*. This tool uses Google Earth to identify the location of stationary sources and their estimated risk and hazard impacts. A Stationary Source Inquiry Form (SSIF) was submitted to BAAQMD which included updated plant information (see *Attachment 4 of Appendix A*) and updated cancer risk predictions. The tool used distance multipliers to adjust the risk levels for distance between the sources and the closest portion of the project site where sensitive receptors would reside. Six stationary sources were identified, including five gas stations and one diesel generator.

Figure 3.1-1: Stationary Source Locations

Table 3.1-5 summarizes the single source impacts from nearby mobile and stationary sources on on-site sensitive receptors. As shown in this table, the potential cancer risk, annual $PM_{2.5}$ concentrations, and hazard index would be below the BAAQMD significance thresholds for community risk, when evaluating the sources individually and cumulatively. Therefore, the project would not result in a long-term health and safety risk for future residents resulting from ambient air pollution.

Table 3.1-5: Mobile and Stationary Source Community Risk Levels

Source	Maximum Cancer Risk (per million)	Maximum Annual $PM_{2.5}$ Concentration ($\mu g/m^3$)	Maximum Hazard Index
Local High-Volume Roadways			
First Street	3.5	0.10	<0.01
Las Positas Road	7.1	0.20	<0.01
Union Pacific Railroad Line Train Activity (ACE Commuter and UP Trains)			
Union Pacific Railroad Line	3.1	0.04	<0.01
Permitted Stationary Sources			
Plant G8949 – 4700 First Street	0.1	0.00	0.00
Plant G11754 – 4904 Southfront Road	0.3	0.00	0.00
Plant 13669 – 4255 First Street	0.7	0.00	0.00
Plant G9353 – 4707 East First Street	1.0	0.00	0.00
Plant G10597 – 4495 First Street	6.3	0.00	0.01
Plant G11113 – 4530 Las Positas Road	0.5	0.00	0.00
BAAQMD Threshold - Single Source	*>10.0*	*>0.3*	*>1.0*
Cumulative Total	<22.6[1]	<0.34	<0.04
BAAQMD Threshold - Cumulative	*>100.0*	*>0.8*	*>10.0*
Thresholds Exceeded?	***No***	***No***	***No***

Note: [1]The combined total assumes the maximum risk at the project site from each source occurs at the same place. This results in an overestimate because the maximum impacts occur at different locations across the site.

3.2 BIOLOGICAL RESOURCES

There are no proposed changes to the project that would result in new impacts to biological resources on-site. Biological resources have been addressed as part of this Addendum to confirm the original findings of the 2007 analysis and ensure that conditions on-site have not changed. The following analysis is based upon an updated Tree Survey prepared by *HortScience, Inc.* in May 2016, and an updated Biological Resources Report prepared by *Live Oak Associates, Inc.* in December 2016. A copy of the reports are attached in Appendices B and C of this document, respectively.

3.2.1 Findings of the Previous IS/MND

The adopted IS/MND addressed impacts to endangered, threatened, or rare species (i.e., special status species), loss of habitat (including trees), and impacts to migration corridors.

Based on the biology report for the Arroyo Vista Neighborhood Plan IS/MND, 14 special-status plant species, including the Big-scale balsam-root, Congdon's tarplant, hairless popcorn flower, and caper-fruit tropidocarpum have been known to occur within five miles of the project site. Additionally, seven special-status animal species, including the California Linderiella, the Curved-Foot Hygrotus Diving Beetle, the California Tiger Salamander, the California Red-Legged Frog, the Western Pond Turtle, the Western Burrowing Owl, and the San Joaquin Kit Fox, have been known to occur in the region of the project site. Due to the disturbance on-site and given the intense development surrounding the site, the site would not provide a suitable habitat for these species.

While the report did not find any evidence of special status species on-site, it noted the trees on-site could provide nesting and/or foraging habitat for raptors, migratory birds, and burrowing owls. The adopted IS/MND included mitigation measures that require a qualified biologist to conduct site surveys prior to any construction activities on-site to ensure special status species are not present on-site and to avoid potential impacts to nesting raptors, migratory birds, and burrowing owls.

The IS/MND concluded that adherence to the City's Tree Replacement Policy as a condition of approval of any future development project on the site would reduce potential impacts from tree removal to a less-than-significant level.

The adopted IS/MND noted that the seasonal Arroyo Seco has been straightened and reconfigured into trapezoidal channel, and is currently separated from the project site by access roads and chain-link fencing that inhibit migration of wildlife from the channel onto the project site. The IS/MND determined that the proposed free span pedestrian bridge, multi-use trail using the Alameda County Flood Control District (Zone 7) service road, and stormwater drainage facilities would be designed to avoid impacts to the Arroyo Seco Channel. Although the project would not directly impact any wetlands, future development is subject to mitigation measures to minimize potential impacts to the channel.

3.2.1.1 Biology Resources Impacts of the Modified Project

Since adoption of the Arroyo Vista Neighborhood Plan IS/MND, the City participated in the development of the East Alameda County Conservation Strategy (EACCS). In July 2011, the City

Council accepted the Conservation Strategy as guidance for environmental permitting and regional conservation for endangered species in Eastern Alameda County.

Special Status Species

Consistent with the findings of the Arroyo Vista Neighborhood Plan IS/MND, the December 2016 study did not observe any special-status plant species on the project site. The project is required to conduct a special status plant survey prior to project construction in accordance with the EACCS and the mitigation measure in the adopted IS/MND. The special status plant survey would confirm the absence of all relevant regional special status species, including the Big-scale balsam-root, Congdon's tarplant, hairless popcornflower, and caper-fruit tropidocarpum.

As mentioned in *Section 3.2.1*, seven special status animal species have been known to occur within five miles of the project site. During the December 2016 site visit, gopher burrows and California ground squirrel burrows were observed on-site. Consistent with the mitigation measure in the adopted IS/MND and current regulations, the project shall implement the following condition of approval:

- A nesting season survey shall be conducted prior to any construction activities on-site. The survey shall be completed consistent with the *2012 Burrowing Owl Mitigation* CDFW guidelines. If no owls are found during the survey, no further action is necessary. If Burrowing Owls are observed during the nesting season survey, a fenced 276 foot buffer shall be required for any active burrowing owl nests or occupied burrows observed. The buffer may be removed once it is determined by a qualified ornithologist that the young has fledged. Additionally, a Mitigation Plan and Mitigation Agreement shall be prepared and submitted to the California Department of Fish and Wildlife, consistent with *2012 Burrowing Owl Mitigation* guidelines. The Mitigation Plan and Agreement shall include a description of monitoring and management methods proposed. A copy of the Mitigation Plan and Agreement shall be submitted to the City for review and approval prior to the issuance of grading permits.

All other special status animal species occurring in the region are unlikely to be found on-site due to lack of habitat and the urban development surrounding the project site.

Migratory Birds and Nesting Raptors

Migratory birds are protected under the Migratory Bird Treaty Act and the California Department of Fish and Wildlife (CDFW) Code Sections 3503, 3503.5, and 3800. The CDFW defines "taking" as a nest abandonment and/or loss of reproductive efforts through disturbance. Any loss of fertile eggs, nesting raptors, or nest abandonment would constitute a significant impact. The modified project would be required to implement the mitigation measures identified in the updated biological resources report to avoid impacts to nesting raptors and migratory birds resulting from tree removal or construction, consistent with those in the Arroyo Vista Neighborhood Plan IS/MND.

Tree Removal

Based on an updated tree survey, a total of 41 non-native trees were observed on and adjacent to the site. Of the 41 trees observed, there are 25 trees located on-site and 16 trees located off-site. All 25 trees on-site would be removed and none of the off-site trees would be removed. Consistent with the Arroyo Vista Neighborhood Plan IS/MND, the project would be required to comply with the City of Livermore's Tree Preservation Ordinance. As a condition of project approval, the trees that would be damaged or removed would be replaced at the following ratio: 5:1 for trees in good health, 3:1 for trees in moderate health, and 1:1 for trees in poor health. With this measure, the modified project would not result in a new impact from tree removal beyond what was previously identified in the adopted IS/MND.

Wetlands

The Arroyo Seco Channel, located between the two development parcels, off-site, is classified as a riverine wetland[2] and a "water of the United States."[3] The project proposes to build a pedestrian bridge over the Arroyo Seco and construct a multi-use trail along the west side of the channel, utilizing the existing Zone 7 service road. The bridge will be free span and avoid placement of permanent fill within the banks of the Arroyo Seco channel. The trail has also been designed to avoid impacts to the channel by directing runoff to the stormwater facilities on the project site, with no new outfalls. Construction of the project will be subject to the mitigation measure identified in the adopted IS/MND to avoid impacts to the channel.

The modified project would not result in a new or significant biological resources impact beyond what was previously identified in the Arroyo Vista Neighborhood Plan IS/MND.

[2] United States Fish and Wildlife Service. National Wetlands Inventory – V2. Accessed on February 7, 2017. Available at: https://www.fws.gov/wetlands/data/Mapper.html.

[3] United States Environmental Protection Agency. Clean Water Rule: Definition of "Water of the United States" 40 CFR 230.3. Accessed on March 27, 2017. Available at: https://www.epa.gov/sites/production/files/2015-06/documents/clean_water_rule_40_cfr_230_3.pdf.

3.3 CULTURAL RESOURCES

3.3.1 Cultural Resources

The approved IS/MND addressed impacts to archaeological, paleontological resources, and historic resources, and ethnic, religious, or sacred values or uses. The adopted IS/MND concluded that conformance with the City's General Plan policies and actions under Objectives CC-3.4 would reduce impacts to archaeological and paleontological resources to a less-than-significant level. The project will be subject to these measures as conditions of approval.

At the time, the project site had a single family residence that was estimated to be at least 50 years old. The IS/MND concluded that adherence to the City's historic preservation procedures would reduce any potential impacts associated with demolition of this structure to a less-than-significant level. In 2007, the property owner obtained a Certificate of Appropriateness (COA07-004) to remove the structure, in conformance with the City's policies.

There are no proposed changes to the project that would result in new impacts to cultural resources on-site.

3.3.2 Tribal Cultural Resources

In 2014, Assembly Bill 52 (Chapter 532, Statutes 2014) required an update to Appendix G (Initial Study Checklist) of the CEQA Guidelines to include questions related to impacts to tribal cultural resources. AB 52 also requires the a lead agency (in this case the City) to begin consultation with any California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project prior to the release of a negative declaration or mitigated negative declaration if (1) the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification and requests the consultation (Public Resources Code Section 21080.3.1[d]).

Two Native American tribes have requested consultation with the City in accordance with AB 52. The City notified these tribes by sending letters on February 23, 2017 (see Appendix D). The City did not receive a request for consultation within 30 days. No tribal cultural resources (as defined in Public Resources Code Section 21074) were identified on the project site or adjacent parcels. Therefore, no impact would occur.

The Project would not result in a new or more significant impact to cultural resources than was previously identified in the Arroyo Vista Neighborhood Plan IS/MND.

3.4 GREENHOUSE GASES

Since adoption of the adopted IS/MND, the State adopted regulations on the emission of greenhouse gases (GHGs), which resulted in updates to CEQA and BAAQMD's Air Quality Thresholds of Significance. The City also adopted a Climate Change Element and Climate Action Plan. The approved IS/MND did not analyze the project's GHG emissions impacts as there were no thresholds or policies to direct such an analysis at that time. The IS/MND tiered from the 2003 General Plan EIR, and the City prepared a Supplemental EIR for the Climate Change Element in 2009.

In March 2017, *Illingworth & Rodkin, Inc.* prepared an Air Quality Assessment for the modified project. A copy of this report is provided in Appendix A. The following analysis addresses the project's consistency with the City's Climate Action Plan and Climate Change Element, and evaluates the operational and construction emissions that would result from the proposed project against BAAQMD's thresholds.

3.4.1 Regulatory Framework

3.4.1.1 State Laws and Executive Orders

California Assembly Bill 32 and Executive Order S-3-05

AB 32, also known as the California Global Warming Solutions Act, was signed into law in September 2006. AB 32 requires California to reduce its total GHG emissions to 1990 levels by 2020. Prior to the adoption of AB 32, Governor Arnold Schwarzenegger signed Executive Order S-3-05 into law, which requires statewide reductions in GHG emissions to 80 percent below 1990 levels by 2050. The California Air Resources Board (CARB) is the state agency in charge of coordinating GHG emissions reduction effort and establishing statewide targets along the way.

In December 2008, the CARB approved the *Climate Change Scoping Plan*, which proposed a comprehensive set of actions designed to reduce California's dependence on oil, diversify energy sources, save energy, and enhance public health, among other goals. Per AB 32, the Scoping Plan must be updated every five years to evaluate the mix of AB 32 policies to ensure that California is on track to achieve the 2020 greenhouse gas reduction goal. The First Update to the Scoping Plan was approved on May 22, 2014, and builds upon the Scoping Plan with new strategies and recommendations. The First Update defines CARB's priorities over the next five years and lays the groundwork to reach long-term goals set forth in Executive Order S-3-05.[4]

Executive Order B-30-15

On April 29, 2015, Governor Brown issued Executive Order B-30-15 establishing a GHG reduction target for California for 40 percent below 1990 levels by 2030. This is considered a mid-term target for implementation of reducing statewide GHG emissions to 80 percent below 1990 levels by 2050. All State agencies with jurisdiction over sources of GHG emissions were directed to implement measures to achieve reductions of GHG emissions to meet the 2030 and 2050 targets. CARB was

[4] California Environmental Protection Agency. Air Resources Board. *First Update to the AB 32 Scoping Plan.* Accessed March 16, 2017. http://www.arb.ca.gov/cc/scopingplan/document/updatedscopingplan2013.htm.

directed to update the AB 32 Climate Change Scoping Plan to reflect the 2030 target and is moving forward with the update process, as discussed under Senate Bill 32 (SB 32) and Assembly Bill 197 (AB 197), below.

California Senate Bill 32 and Assembly Bill 197

SB 32 and AB 197 were signed into law in September 2016. The SB 32 legislation amends provisions of AB 32 to require CARB to ensure that statewide GHG emissions are reduced to 40 percent below 1990 levels by December 31, 2030. This legislation incorporates the Executive Order B-30-15 target into State law. Changes to the Health and Safety Code under the companion AB 197 legislation call for each scoping plan update to identify each emissions reduction measure and include the range of projected GHG emissions reductions as well as the range of projected air pollution reductions that result from the emission reduction measure.

The mid-term target is considered critical by the State to help frame the suite of policy measures, regulations, planning efforts, and investments in clean technologies and infrastructure needed to continue reducing GHG emissions. CARB is charged with adopting rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emission reductions to meet the new interim statewide GHG target. The framework for GHG emission reductions would be provided through an update to the current Climate Change Scoping Plan.

California Senate Bill 375

SB 375, also known as the Sustainable Communities and Climate Protection Act of 2008, builds on AB 32 by requiring CARB to develop regional GHG reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035. Metropolitan planning organizations are now required to create Sustainable Community Strategies (SCS) to meet the target emissions reductions as part of the Regional Transportation Plan, through the coordination of land use, housing, and transportation planning. The Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) adopted Plan Bay Area in 2013 as the region's SCS. The target for the Bay Area is a seven percent per capita reduction in GHG emissions attributable to automobiles and light trucks by 2020 and a 15 percent per capita reduction by 2035.

3.4.1.2 Bay Area 2017 Clean Air Plan

BAAQMD's most recently adopted plan is the Bay Area 2017 Clean Air Plan (2017 CAP). Consistent with the GHG reduction targets adopted by the state of California, the 2017 CAP lays the groundwork for the BAAQMD's long-term effort to reduce Bay Area GHG emissions 40 percent below 1990 levels by 2030 and 80 percent below 1990 levels by 2050.

The 2017 CAP defines an integrated, multi-pollutant control strategy to reduce emissions of particulate matter, TACs, ozone precursors, and GHGs. The proposed control strategy is designed to complement efforts to improve air quality and protect the climate that are being implemented by partner agencies at the State, regional, and local scale. The control strategy encompasses 85 individual control measures that describe specific actions to reduce emissions of air and climate pollutants from the full range of emission sources and is based on the following four key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Decarbonize our energy system.

3.4.1.3 Local Plans and Policies

City of Livermore 2003-2025 General Plan – Climate Change Element

The City of Livermore adopted the Climate Change Element as a General Plan Amendment in March 2009. The Climate Change Element establishes the City's goals, policies, and programs for GHG reductions consistent with Assembly Bill 32 (AB 32). The Climate Change Element is intended to provide additional policies to support AB 32 and the City's on-going efforts to reduce GHG emissions.

Livermore Climate Action Plan

In November 2012, the City Council adopted the Livermore Climate Action Plan to implement the Climate Change Element. The City's 2012 CAP provides a plan to reduce GHG emissions 15 percent below 2008 levels by 2020, consistent with statewide GHG efforts. The City's estimated community emissions level in 2008 was 426,177 metric tons of carbon dioxide equivalent ($MTCO_2e$). To meet the City's GHG emission reduction target, the 2012 CAP has identified 17 local reduction measures. The measures are divided into six categories: Building Energy, Land Use and Transportation, Water Conveyance, Wastewater Treatment, Solid Waste Generation, and Urban Forestry and Conservation. Some measures are considered mandatory for all development projects, while others are considered voluntary.

3.4.2 Greenhouse Gas Impacts of the Modified Project

Per CEQA Guidelines Section 15064(b), the determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the Lead Agency and must be based to the extent possible on scientific and factual data. The significance of greenhouse gas impacts is based upon consistency with the local plans and policies that implement state laws and with the regional thresholds for project-level emissions.

3.4.2.1 Consistency with Local Policies

CEQA clearance for all development proposals are required to address the consistency of individual projects with the goals and policies in the General Plan designed to reduce GHG emissions. The entire project site is designated *LII – Low Intensity Industrial* and *UH-3 – Urban High Residential* under the City's General Plan. The dual General Plan designation allows for either *LII* or *UH-3* subject to the development of a Neighborhood Plan. The *UH-3* designation would allow development of the site at a density of 14-18 du/AC. The Arroyo Vista Neighborhood Plan was approved by City Council on July 2, 2007, and the modified project is consistent with the Neighborhood Plan and density assumed for the site (15 du/ac). Therefore, the previously approved project and the modified project are both consistent with the development assumptions in the General Plan.

The 2009 Supplemental EIR prepared for the Climate Change Element concluded that implementation of the Climate Change Element would substantially reduce GHG emissions beyond "business as usual". However, development under the City's General Plan could still result in a cumulatively considerable contribution of GHG emissions to global climate change, even with adoption of a Climate Action Plan and continued progress at the state level, due to the uncertainty associated with predicting emissions. Future projects will be evaluated for their individual contribution to the cumulative impact and will be subject to policies in the General Plan and Climate Action Plan to reduce GHG emissions.

The proposed project is consistent with the development assumptions for the site, as analyzed in the Supplemental EIR. The project would implement applicable GHG reduction measures in the City's Climate Action Plan, as summarized in Table 3.4-1 below. The proposed project is consistent with local plans and policies related to GHG impacts.

Table 3.4-1: Project Consistency with Applicable GHG Reduction Measures

Control Measures	Description	Project Consistency
Energy		
Energy-3: Exceed Title 24 Requirements for New Buildings	This measure would require the City to periodically update its adopted energy efficiency standards, exceeding the Title 24 requirements.	The City is required to periodically update its energy efficiency standards to exceed Title 24 standards by 15 percent through 2020. All new developments, including the proposed project would be required to comply with the City's energy efficiency standards.
Transportation and Land Use		
On Road-3: Transit Enhancements	The City would encourage and require new developments to provide transit amenities within the project area.	Two local bus routes (Routes 11 and 15) are located near the project site. Safe, well-lit pedestrian paths to the nearest transit stops would be provided. The project proposes to construct a public transit shelter on Las Positas Road.
Water Conveyance		
Water-1: Reduce Per Capita Urban Water Use by 20% below 2008 per Capita levels	The City would implement a mix of voluntary and mandatory measures to reduce urban water use 20 percent by 2020 per requirements of State regulation.	The proposed project would be required to comply with *Section 4.301* of the CalGreen Code to conserve water used indoors, outdoors and in wastewater conveyance.[5]
Solid Waste Generation		
Waste-1: Waste Diversion	The City would increase the amount of waste diverted from landfills, which would reduce vehicle miles traveled associated with transporting waste to landfills.	The proposed project would be required to recycle and/or salvage for reuse a minimum of 65 percent of nonhazardous construction and demolition waste, consistent with *Section 4.408.1* of the CALgreen Code.[6]
Urban Forestry and Conservation		
Urban Forestry-1: Urban Shade Trees	The City would continue to require a minimum number of new trees to be planted with new development.	The proposed project would comply with the City's Tree Preservation Ordinance (Municipal Code Chapter 12.20) and the City's tree replacement policy.

[5] International Code Council. *Chapter 4 Residential Mandatory Measures*. Available at: http://codes.iccsafe.org/app/book/content/2016%20California%20Codes/Green/Chapter%204%20Residential%20Mandatory%20Measures.pdf. Accessed on March 24, 2017.
[6] Ibid.

Operational Emissions

Even though the project would be consistent with the City's Climate Action Plan, GHG operational emissions were quantified to ensure compliance with AB 32. The CalEEMod model was used to predict GHG emissions associated with the project. The CalEEMod modeling included default conditions developed by BAAQMD and the most updated emissions rate from electricity generation reported in the California Climate Registry. The operational emissions were assumed to be highest in the year 2020 with full build-out and occupancy of the project.

Total operational emissions were calculated to be 5,004 MT of CO_2e per year. The project has an estimated service population of 1,228 persons.[7] Therefore, the annual GHG emissions would be 4.1 MT of CO_2e per service population, which is below the BAAQMD threshold of 4.6 MT of CO_2e per service population.

Construction Emissions

The proposed development would result in a temporary increase in GHG emissions associated with construction activities including operation of construction equipment and emissions from construction workers' personal vehicles traveling to and from the project site. Construction related GHG emissions vary depending on the level of activity, length of the construction period, specific construction operations, types of equipment, and number of personnel. Neither the City nor BAAQMD have an adopted threshold of significance for construction-related GHG emissions. Construction GHG emissions were estimated to emit a maximum of 924 MT of CO_2e per year under the most intensive construction scenario. The total construction period emissions was estimated to emit 1,782 MT of CO_2e. Because construction would be temporary and would not result in a permanent increase in emissions, the project would not interfere with the implementation of AB 32.

For these reasons, the proposed project would not result in a new or more significant impact than analyzed in the 2009 Supplemental EIR prepared for the Climate Change Element of the General Plan.

[7] United States Census Bureau. QuickFacts Livermore city, California. Accessed February 28, 2017. Available at: https://www.census.gov/quickfacts/table/PST045215/0641992. The projected service population was calculated by multiplying 437 proposed dwelling units and the 2.81 persons per household from the U.S. Census data.

3.5 NOISE

There are no proposed changes to the project that would increase the noise effects of the approved project. For example, the proposed development includes fewer dwelling units than the approved project analyzed in the adopted IS/MND, and therefore, would generate less traffic noise.

Regulatory changes since 2007 affect the analysis of noise impacts under CEQA. As described in Section 3.1.2.4, in a December 2015 opinion, the California Supreme Court confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project [*California Building Industry Association v. Bay Area Air Quality Management District,* 62 Cal. 4th 369 (No. S 213478)]. Therefore, effects of ambient noise on future residents of the proposed development is no longer considered a CEQA issue. The City, however, has policies that address existing conditions affecting a proposed project. This section will discuss consistency City policies pertaining to ambient noise levels, for informational purposes.

3.5.1 Applicable City Policies

Policy N-1.1.P4: The City shall use the Land Use Compatibility Guidelines (measured in dBA CNEL or L_{dn}) contained in Table 9-7 in this Element to direct the siting, design, and insulation of new development to reduce exposure to excessive noise. Where warranted, the City shall employ discretionary review of new development to ensure that the community will be protected from excessive noise levels. The City shall evaluate potential noise impacts and recommend mitigation measures through discretionary review procedures such as environmental review, design review, and evaluation of use permits.

Table 3.5-2: Noise and Land Use Compatibility (CNEL) (dB)

Land Use	Normally Acceptable (dBA CNEL)	Conditionally Acceptable (dBA CNEL)	Normally Unacceptable (dBA CNEL)	Clearly Unacceptable (dBA CNEL)
Residential – Single-Family	<60	55-70	70-75	>75
Residential – Multi-Family	<65	60-70	70-75	>75
Playground, Park	<70	--	70-75	>75

(a) **Normally Acceptable:** If the noise level is within the "normally acceptable" level, noise exposure would be acceptable for the intended land use. Development may occur without requiring an evaluation of the noise environment unless the use could generate noise impacts on adjacent uses.

(b) **Conditionally Acceptable:** If the noise level is within the "conditionally acceptable" level, noise exposure would be conditionally acceptable; a specified land use may be permitted only after detailed analysis of the noise environment and the project characteristics to determine whether noise insulation or protection features are required. Such noise insulation features may include measures to protect noise sensitive outdoor activity areas (e.g., at

residences, schools, or parks) or may include building sound insulation treatments such as sound-rated windows to protect interior spaces in sensitive receptors.

(c) **Normally Unacceptable:** If the noise level is within the "normally unacceptable" level, analysis or mitigation are required. Development should generally not be undertaken unless adequate noise mitigation options have been analyzed and appropriate mitigations incorporated into the project to reduce the exposure of people to unacceptable noise levels.

Policy N-1.2.P2: The City shall require applicants for new noise-sensitive development, such as schools, residences, and hospitals, in areas subject to noise levels greater than 65 dBA CNEL to obtain the services of a professional acoustical engineer to provide a technical analysis and to design mitigation measures to attenuate noise to acceptable levels.

Policy N-1.2.A1: Promote use of noise insulation materials in new construction and major rehabilitation.

Policy N-1.3.A1: Enforce City, State and federal noise level standards.

Policy N-1.3.A2: Continue to enforce the City's Noise Ordinance to reduce noise impacts.

3.5.2 Findings of the Previously Certified IS/MND

The City of Livermore's 2003 General Plan Final EIR analyzed the potential noise impacts that would be generated by build out of the General Plan. The Final EIR concluded that build out of the General Plan would increase traffic noise levels along some roadways by over four dBA (also known as the A-weighted sound level). In 2025, the Community Noise Equivalent Level (CNEL)[8] along the project site was estimated to range from 68.5 to 70 dBA. This is considered "conditionally acceptable" for single-family and multi-family residential uses, based on the General Plan Land Use Compatibility Guidelines in the Noise Element (summarized above).

According to the approved IS/MND, noise levels at the site ranged between 60 and 70 dBA, depending on the exact location. A Noise Assessment was prepared by *Charles M. Salter Associates, Inc.* for the Arroyo Vista Neighborhood Plan IS/MND in 2005. This assessment provided recommendations for door and window Sound Transmission Class (STC)[9] rating requirements to reduce interior noise levels to 45 dB (with windows closed). The noise study recommended a STC requirement from 28 to 35, depending on the location.

The approved IS/MND concluded that additional noise analysis would be required when a more specific development is proposed. This analysis shall address projected traffic noise levels based on future roadway conditions surrounding the site (specifically Las Positas Road) through 2025 and provide recommendations for noise attenuation measures, including specific recommendations for STC door and window ratings for buildings to meet City and State noise requirements.

[8] The Community Noise Equivalent Level (CNEL) is a measure of the cumulative noise exposure in a community, with a five dB penalty added to evening noise between 7:00 PM and 10:00 PM and a 10 dB addition to nighttime noise between 10:00 PM and 7:00 AM.

[9] The Sound Transmission Class (STC) is a single-number rating used to rate the sound insulation properties of building partitions. Increasing STC ratings correspond to improved noise isolation.

3.5.2 Noise Impacts of the Modified Project

Since approval of the IS/MND in 2007, a more specific development has been proposed. Consistent with the mitigation measure in the IS/MND and General Plan policies, a noise assessment was prepared for the modified project in July 2016 by *Charles M. Salter Associates, Inc.* A copy of this report is provided in Appendix E.

3.5.2.1 Existing Conditions Affecting the Project

Noise in the project area is generated primarily by vehicular traffic on Las Positas Road, Arroyo Vista, and Bennett Drive. A noise monitoring survey was performed on-site between May 18, 2016 and May 20, 2016. The noise monitoring survey included three long-term noise measurements (LT-1, LT-2, and LT-3) as shown in Figure 3.5-1. Table 3.5-1 below gives a summary of the acoustical locations and measurements.

Figure 3.5-1: Noise Measurement Locations

Table 3.5-1: Existing Long Term Noise Measurements

Measurement	Location	CNEL
LT-1	Las Positas Road Monitor - Approximately 25 feet south of the roadway centerline.	75 dB
LT-2	Arroyo Vista Monitor - Approximately 40 feet south of roadway centerline	65 – 67 dB
LT-3	Bennett Drive Monitor - Approximately 30 feet west of roadway centerline	66 – 71 dB

3.5.2.2 Future Noise Levels

The updated noise study assumed widening of Las Positas Road to four lanes adjacent to the project site and an increase in traffic volumes to estimate noise levels in 2025. Based on these assumptions, future noise levels are estimated to range exceed 60 dB CNEL, reaching up to 67 CNEL dB along Arroyo Vista, 68 dB CNEL along Bennett Drive, and 73 dB CNEL along Las Positas Road. Noise levels along Las Positas Road would be considered normally unacceptable. Along the other roadways, the noise levels would be considered conditionally acceptable.

The project would need to incorporate sound-rated windows and exterior doors to reduce interior noise levels to 45 dB, consistent with the most recent CALGreen requirements. The updated noise assessment recommends that the Sound Transmission Class[10] (STC) window and door ratings be increased as follows:

- Las Positas Road – STC 32 to 37
- Bennett Drive – STC 30 to 35
- Arroyo Vista – STC 28 to 32

As a condition of approval, the project will incorporate these STC recommendations and mechanical ventilation to ensure interior noise levels do not exceed 45 dBA with windows closed under future conditions.

The side yards of the single-family detached units are considered usable private open space. By incorporating six-foot tall fences at the single-family residences along Arroyo Vista and Las Positas Road, the estimated traffic noise levels in these outdoor areas would be reduced to 65 CNEL dB or below, which would be within the conditionally acceptable range for this use.

The remaining usable open space on the site (included in the required open space calculations) would be located such that noise levels would be within acceptable range for multi-family residential and public parks (70 dBA or less), and additional screening measures would not be necessary. The balconies and porches of the attached units facing Las Positas Road are not considered usable open spaces, and therefore, the noise study's recommendation to provide solid deck railings is not required.

With incorporation of the conditions of approval, the modified project is consistent with the City's policies related to the effect of ambient noise on future residents.

[10] The STC is a single-number rating used to rate the sound insulation properties of building partitions. Increasing STC ratings correspond to improved noise isolation.

3.6 TRANSPORTATION

The approved IS/MND addressed increased vehicle trips and traffic congestion, potential roadway safety hazards resulting from project design, emergency access, parking, pedestrian and bicycle facilities, consistency with alternative transportation policies, and rail, waterborne, or air traffic impacts. No changes would occur relevant to rail, waterborne, or air traffic impacts because the modified project would not be taller than the approved project or located in closer proximity to active rail lines or water courses.

This section focuses on the project changes related to Las Positas Road, described in Section 2.2. The following analysis addresses all required transportation thresholds pursuant to CEQA, except for potential impacts to rail, water, and air traffic.

3.6.1 Findings of the Previously Certified IS/MND

3.6.1.1 Traffic Impacts

The City of Livermore's 2003 General Plan Final EIR analyzed the potential traffic impacts that would result from build out of the General Plan. In 2005, *Fehr & Peers, Inc.* prepared a Transportation Impact Analysis (TIA) for the Arroyo Vista Neighborhood Plan IS/MND which was based on 460 dwelling units. The 2005 TIA concluded that under near-term conditions, the addition of project traffic trips would not cause intersections to degrade to an unacceptable Level of Service (LOS) nor would the net increase of project trips increase intersection delays to cause a LOS change at any of the study intersections. In addition, a subsequent analysis was prepared for the approved project to determine whether construction of 514 dwelling units (the maximum density permitted on-site) would result in any new or additional significant traffic impacts. City staff concluded that the addition of 514 dwelling units would not result in significant traffic impacts.

3.6.1.2 Project Design

The IS/MND identified two roadway curves located along Las Positas Road and Bennett Drive that may obstruct views of drivers. The 2005 TIA included specific site distances and design recommendations to minimize potential traffic hazards from vehicles exiting the site and vehicles traveling along the roadway curves. In addition, the Livermore Police Department and the Livermore-Pleasanton Fire Department reviewed the approved document and did not identify any impacts.

3.6.2 Transportation Impacts of the Modified Project

Since the approval of the IS/MND in 2007, an updated Technical Memorandum was completed by *Fehr & Peers, Inc.* in November 2016 to address changes to the 2005 TIA. A copy of this report is provided in Appendix F.

3.6.2.1 Trip Generation Estimates

Traffic trips generated by the proposed project were estimated using the rates for Single-Family Homes (Land Use 210) and Condominium/Townhomes (Land Use 230) published in the Institute of

Transportation Engineers' (ITE's) *Trip Generation Manual*, Ninth Edition. It is estimated that the proposed project would generate 3,870 daily vehicle trips, with 297 trips in the AM Peak Hour and 386 trips in the PM Peak Hour, as summarized in Table 3.6-1, below. The trip generation rates are conservative because it applied the standard trip generation rate for "single-family detached homes" to both the detached and attached single-family units. It also assumed 437 units, including 96 flats, instead of the proposed 435 units with 100 flats. The change in the unit counts does not affect the conclusions of this analysis.

Table 3.6-1: Project Trip Generation Estimates

Land Use	Size (units)	Rates Per Dwelling Unit	Daily Trips	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Single-Family	341	9.53	3,250	62	186	248	200	117	317
Townhomes	96	6.46	620	8	41	49	46	23	69
		Net Project Trips	3,870	70	227	297	246	140	386

3.6.2.2 Existing Plus Project Intersection Operations

The LOS of the study intersections were calculated under existing plus project conditions by adding the net trips from the proposed development to the existing conditions intersection turning movements. The results of the existing plus project conditions analysis are summarized in Table 3.6-2, below.

Table 3.6-2: Study Intersections Level of Service – Existing Plus Project Conditions

No.	Intersection	Peak Hour	Existing		Existing Plus Project	
			Delay	LOS	Delay	LOS
1	Las Positas Road and Arroyo Vista	AM	9.0	A	10.0	B
		PM	11.0	A	14.0	B
2	Las Positas Road and Contractors Street	AM	1.0	A	2.0	A
		PM	1.0	A	2.0	A
3	Las Positas Road and Project Driveway	AM	N/A	N/A	1.0	A
		PM			1.0	A
4	Las Positas Road and Bennett Drive	AM	1.0	A	1.0	A
		PM	1.0	A	1.0	A
5	Bennett Drive and Project Driveway	AM	N/A	N/A	5.0	A
		PM			3.0	A

Under the existing plus project scenario, Peak Hour warrants were not satisfied at any of the study intersections. Analysis of the study intersections under existing plus project conditions concluded that all five of the unsignalized study intersections would operate at an acceptable LOS B or better during AM and PM Peak Hours.

3.6.2.3 Near-term Plus Project Intersection Operations

The LOS of the study intersections was calculated under near-term plus project conditions by adding the net project trips from the proposed development to the near-term conditions intersection turning movements. The results of the existing plus project conditions analysis are summarized in Table 3.6-3 below.

Table 3.6-3: Study Intersections Level of Service – Near-term Plus Project Conditions

No.	Intersection	Peak Hour	Near-term		Near-term Plus Project	
			Delay	LOS	Delay	LOS
1	Las Positas Road and Arroyo Vista	AM	9.0	A	10.0	B
		PM	12.0	B	14.0	B
2	Las Positas Road and Contractors Street	AM	1.0	A	2.0	A
		PM	1.0	A	2.0	A
3	Las Positas Road and Project Driveway	AM	N/A	N/A	1.0	A
		PM			1.0	A
4	Las Positas Road and Bennett Drive	AM	1.0	A	1.0	A
		PM	1.0	A	1.0	A
5	Bennett Drive and Project Driveway	AM	N/A	N/A	5.0	A
		PM			3.0	A

Analysis of the near-term plus project conditions intersection operations concluded that all of the unsignalized intersections would operate at an acceptable LOS during AM and PM Peak Hours. In addition, Peak Hour warrants were not satisfied at any of the study intersection under near-term plus project conditions.

Roadway Segment Analysis

Under existing conditions, the Las Positas Road at Arroyo Seco has approximately 8,510 daily traffic trips. Based on the predicted turn movements to and from the site, the proposed development would generate a net increase of 1,280 traffic trips for a total of 9,790 daily traffic trips. Under existing plus project conditions, the Las Positas Road at Arroyo Seco would continue to operate at an acceptable LOS A.

3.6.2.4 Site Access and Circulation

Consistent with the approved IS/MND, access to the project site would be provided via four driveways, one on Bennett Drive, one on Arroyo Vista, and two on Las Positas Road. All driveways would provide full access into and out of the project site. (If the City widens Las Positas Road to four lanes and installs a landscaped median in the future, left turn movements from the eastern Las Positas Road driveway would be eliminated.)

The Arroyo Vista Neighborhood Plan IS/MND included widening of Las Positas Road from two to four lanes; however, the Technical Memorandum concluded that widening of Las Positas Road to four lanes is not warranted under the existing, near-term, or cumulative traffic conditions. Instead, the Technical Memorandum recommends widening Las Positas Road to provide a three-lane cross-

section to provide left-turn lanes at the project driveways. The project incorporates the recommendations from the Technical Memorandum related to left-turn pockets.

Emergency Vehicle Access

Emergency vehicle access would be provided via the four driveways serving the site. All roadways within the vicinity of the site are at least 20 feet wide. Per City requirements, the Fire Department has reviewed the site plan for fire hydrant placement and emergency vehicle access and confirmed that the project will meet Fire Code and City standards. Therefore, the proposed project would have a less than significant emergency vehicle access impact.

Pedestrian and Bicycle Facilities

New pedestrian paths would be constructed within the project site, and would connect to new and existing pedestrian and bicycle facilities on Las Positas Road, Arroyo Vista, and Bennett Drive. The modified project includes a multi-use trail along the west side of the Arroyo Seco channel, a pedestrian bridge across the channel to connect the two sides of the site, new crosswalks and signals on Las Positas Road at the intersections with Arroyo Vista and Contractors Street, a trail crossing on Arroyo Vista, and streetscape improvements along the project frontages. These improvements are consistent with the approved project. In addition, the modified project includes two raised crosswalks on the new public street on the western parcel to help control internal travel speeds.

As mentioned previously, Class II bicycle lanes are provided on Las Positas Road. Under project conditions, the existing bicycle lanes would be maintained. The project may add a buffer to increase the separation between the bike lanes and the vehicle travel lanes. While not envisioned in the Neighborhood Plan, this improvement would meet the intent of the Plan to enhance Las Positas Road as a multi-modal facility and would not result in new or more significant impacts on transportation.

Overall, the proposed project would enhance the connectivity, safety, and performance of pedestrian and bicycle facilities in the area.

Transit Facilities

The project site is served by stops along Las Positas Road. Buses traveling eastbound on Las Positas Road have stops at Arroyo Vista, Contractors Street, and Bennett Street. Buses traveling westbound have one stop at Bennett Street. As proposed, the project would construct one public transit shelter on Las Positas Road. The new crosswalk and signal at the Las Positas Road/Contractors Street intersection would provide a safe crossing for transit riders travalling to/from south of the site. Therefore, implementation of the proposed project would not decrease the performance or safety of transit facilities.

EXHIBIT C

Project Title: Neighborhood Plan NP 05-001;
Project Name: Arroyo Vista Neighborhood Plan (Pell Site)

SUMMARY OF IMPACT	SUMMARY OF MITIGATION MEASURE	AGENCY	TIMING
Transportation 6.b.: Potential hazards to safety from design features (e.g. sharp curves or dangerous intersections). The proposed project could potentially pose hazards to safety from site design features (e.g. sharp curves or dangerous intersections) by allowing on-street parking along Las Positas Road in areas near project driveway intersections. Implementation of Traffic Mitigation Measure 6.b.1 will reduce these potential impacts to less than significant.	Traffic Mitigation Measure 6.b.1: To provide adequate sight distance, keep areas near project driveways free of visually obstructive landscaping; and limit the location of public on-street parking on Las Positas Road as follows: ▪ Project Driveway #5 on Las Positas Road/East Side of Arroyo Seco Channel – Remove on-street parking within 360 feet east of the driveway to maintain adequate sight distance; ▪ Project Driveway #6 on south end of Bennett Drive /East Side of Arroyo Seco Channel – Remove on-street parking within 250 feet of the driveway to maintain adequate sight distance.	CDD-PD	TM - With review and prior to approval of Tentative Tract Map
Biology 7.a. and c.: the proposed project could potentially endanger certain rare plant species, nesting raptors and migratory birds if they are found on or adjacent to the site. It could also potentially impact wetland habitat unless mitigated. Mitigation Measures 7.a.1 – 3 and 7.c.1 will reduce these potential impacts to a less than significant level.	Mitigation Measure 7.a.1 Site surveys should be conducted by a qualified biologist during the appropriate time of year prior to any construction on the site to conclusively dismiss the occurrence of Big-Scale Balsam-Root, Congdon's Tarplant, Hairless Popcornflower, and Caper-fruited Tropidocarpum.	CDD - PD, CDFG	BP

Responsible Agency/Department/Party

CDD –PD Planning Division
CDD-ENG Engineering Division
POL Police Department
FD Fire Department
B Building Department
CDFG California Department of Fish and Game
USFWS United States Fish and Wildlife Service
LARPD Livermore Area Recreation and Park District
LVJUSD Livermore Valley Joint Unified School District
Zone 7 Alameda County Flood Control District – Zone 7

Timing of Monitoring

TM Prior to approval of tentative tract maps
FM Prior to approval of final tract maps
BP Prior to approval of building and/or grading plans
C During Construction
PC Post construction/on-going

	Mitigation Measure 7.a.2 (Nesting Raptors) - In order to avoid potential impacts to nesting raptors, a pre-construction nesting raptor survey shall be conducted by a qualified raptor biologist 30 days prior to commencing any construction work during the breeding season of tree nesting raptors (between March 15 and August 31). The raptor nesting survey shall examine trees and shrubs on and adjacent to the project site. Nesting surveys shall be conducted in the spring the year prior to construction of the project and again 30 days prior to tree removal and/or ground breaking at the project site. If nesting raptors are identified during the survey, a 300-foot non-disturbance radius around the nest tree must be staked with orange construction fencing. If the nest site is on adjacent property, then the portion of the 300-foot buffer that occurs on the project site only should be fenced with orange construction fencing. The size of the non-disturbance buffer may be reduced in size by the recommendation of the qualified raptor biologist. Instances where the buffer could be reduced in size would be if the raptors were well acclimated to disturbance and/or if there were physical barriers between the nest site and the construction project that would ameliorate disturbance to the nesting raptors. No construction or earth moving activity should occur within the non-disturbance buffer until it is determined by the biologist that the young have		

Responsible Agency/Department/Party

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B Building Department
CDFG California Department of Fish and Game
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LVJUSD Livermore Valley Joint Unified School District
Zone 7 Alameda County Flood Control District – Zone 7

Timing of Monitoring

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PC Post construction/on-going

	fledged and have attained sufficient flight skills to avoid project construction zones. Once the raptors have completed the nesting cycle (the young have reached independence of the nest), no further regard for the nest is required. Mitigation Measure 7.a.3 (Burrowing Owl) – In order to avoid potential impacts to Burrowing Owls, a nesting season survey shall be conducted prior to commencement of any construction activities on the site. The survey should follow the survey methodology prescribed in California Department of Fish and Game's (CDFG's) *Staff Report on Burrowing Owl Mitigation* (CDFG 1995). This Staff Report serves as official CDFG Burrowing Owl policy. If no owls are found during the survey, no further action is necessary. If Burrowing Owls are observed during the survey, a fenced 75 meter (276-foot) buffer will be required between the nest(s) or active burrow(s) and any earth-moving activity or other disturbance. This buffer could be removed once it is determined by a qualified raptor biologist that the young have fledged (left the nest). If Burrowing Owls are found on the project site, a qualified raptor biologist would need to delineate the extent of Burrowing Owl habitat on the site and a Mitigation Plan and Mitigation Agreement would need to be prepared pursuant to CDFG		

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	requirements and submitted to CDFG for their approval. The Mitigation Plan must identify the amount of mitigation land to be set aside, the mitigation site and any activities necessary to enhance the mitigation site, including the construction of artificial burrows. The Plan should also include a description of monitoring and management methods proposed at the mitigation site. A copy of the Mitigation Plan and Agreement must be provided to the lead agency prior to the lead agency issuing a grading permit for the proposed project. Mitigation Measure 7.a.4 (Migratory Birds) – In order to avoid impacts to common and special-status nesting birds, a pre-construction nesting survey shall be conducted by a qualified ornithologist 30 days prior to commencing any construction work during the breeding season (between March 15 and August 31). If special-status birds, such as Loggerhead Shrike, are identified nesting on or adjacent to the project site, a 100-foot non-disturbance radius around nest must be staked with orange construction fencing. If the nest site is on adjacent property, then the portion of the 100-foot buffer that occurs on the project site only should be fenced with orange construction fencing. The Ornithologist can modify the size of the buffer based upon site conditions and the bird's apparent acclimation to human activities. No construction or earth-moving activity shall occur within this staked buffer until it		

Responsible Agency/Department/Party

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	is determined by the Ornithologist that the young have fledged (left the nest) and have attained sufficient flight skills to avoid project construction zones. If common (non special-status) passerine birds are identified nesting in any trees proposed for removal, tree removal would have to be postponed until it is determined by a qualified ornithologist that the young have fledged and have attained sufficient flight skills to leave the project site area. Mitigation Measure 7.c.1: ▪ ~~Prior to finalizing bridge designs and before~~ any construction activities are initiated, the project developer will acquire a Streambed Alteration Agreement from the CDFG pursuant to Section 1602 of the Fish and Game Code; ▪ ~~All new bridges will be free-span and will~~ avoid placement of permanent fill within the banks of the Arroyo Seco channel; ▪ ~~Before any construction activities are initiated~~, a full erosion control plan shall be developed and implemented with bridge construction; ▪ No equipment shall be allowed in the channel; ▪ ~~Any bridge abutment walls shall be~~ constructed in dry ground back from the existing banks of the channel; ▪ Barren soils that remain adjacent to the		

Responsible Agency/Department/Party

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Timing of Monitoring

TM Prior to approval of tentative tract maps
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C During Construction
PC Post construction/on-going

	channel upon completion of the bridge projects shall be hydroseeded with an erosion control mix containing a complement seed mix of California native plant species.		
Noise: the proposed project could potentially expose people to greater or more severe noise levels unless mitigated. Noise Mitigation Measure 10.b. (found on page 21) will reduce these impacts to a less than significant level by requiring a detailed noise study prior to construction that provides construction methods to attenuate noise levels to a less than significant level.	Mitigation 10.b.1: At the time a specific development proposal/entitlement application is received for the project site, additional noise analysis that addresses projected noise levels through 2025 shall be prepared by a professional acoustical engineer. Consistent with General Plan policy N1.2, P2, the analysis shall include design mitigation measures and construction methods, including door and window STC ratings, to sound rate the exterior facades of buildings and attenuate noise levels to acceptable levels.	CDD - PD	TM - With review and prior to approval of Tentative Tract Map

Responsible Agency/Department/Party

CDD –PD Planning Division
CDD-ENG Engineering Division
POL Police Department
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B Building Department
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Timing of Monitoring

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FM Prior to approval of final tract maps
BP Prior to approval of building and/or grading plans
C During Construction
PC Post construction/on-going

EXHIBIT D

City of Livermore
Community Development Department

Arroyo Vista Neighborhood Plan and 2017 Approved Residential Project

Addendum

May 2024

Prepared by

RANEY PLANNING & MANAGEMENT, INC.
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A. INTRODUCTION AND SUMMARY

The purpose of this Addendum is to demonstrate that further environmental review is not required given that the proposed modifications to the approved project would not trigger the applicable criteria set forth in the CEQA Guidelines Section 15162.

The City of Livermore, Community Development Department, has reviewed the Arroyo Vista Neighborhood Project (proposed project) and on the basis of the whole record before it, has determined that pursuant to CEQA Guidelines Section 15162, no substantial changes have occurred with respect to the circumstances under which the original CEQA document was adopted (in this case, the Arroyo Vista Neighborhood Plan Initial Study/Mitigated Negative Declaration [IS/MND], as amended by the Arroyo Vista Neighborhood Project Addendum), and there is no new available information, which was not known and could not have been known at the time that the original CEQA document was adopted. The proposed project, as identified in this Addendum, would not have a significant effect on the environment beyond that which was evaluated in the Arroyo Vista Neighborhood Plan IS/MND (2007 IS/MND) or the approved and entitled 2017 residential project. Therefore, the proposed project would not trigger the applicable criteria set forth in the CEQA Guidelines Section 15162.

This Addendum to the 2007 IS/MND, as amended by the 2017 Addendum, has been prepared pursuant to Title 14, Section 15164 of the California Code of Regulations and City of Livermore environmental standards.

B. PROJECT BACKGROUND AND LOCATION

The approximately 28-acre Arroyo Vista Neighborhood Plan Project site is located southeast of the intersection of Las Positas Road and Arroyo Vista in the City of Livermore, California, and is bisected by the Arroyo Seco Channel (see Figure 1 and Figure 2). Surrounding existing land uses include light industrial and commercial uses to the north; undeveloped land and a modular building manufacturer to the east, across Bennett Drive; commercial uses to the west, across Las Positas Road; and light industrial and commercial uses to the south, across Las Positas Road.

The 2007 IS/MND, adopted by City Council in 2007, analyzed two conceptual plans for future development of the Arroyo Vista Neighborhood Plan, a residential community, on the site. Plan A (see Figure 3) assumed development of a residential community with 402 residential units consisting of 87 single-family homes and 315 townhomes, and 8.5 acres of open space. Plan B (see Figure 4) assumed development of up to 495 residential units consisting of 170 multi-family residences and 325 townhomes, and 9.3 acres of open space. In addition, the project included a multi-use trail along the west side of the Arroyo Seco Channel and a pedestrian bridge over the channel to connect the western and eastern neighborhoods. The project required approval of a Rezone of the site from Planned Unit Development to Planned Development Residential, a Tentative Map, a Development Agreement, and Site Plan Design Review.

The 2017 Addendum was adopted by City Council in June 2017, along with a land use entitlement package submitted by a homebuilder that refined the original project to focus solely on one site plan. The site plan that was approved in 2017 is shown in Figure 5 and Figure 6. The refined project – approved with a tentative tract map, site plan design review, planned development, and development agreement – included a total of 435 dwelling units, including a mix of 86 single-family detached houses, 249 detached townhomes, and 100 multi-family condominiums. Of the total 435 dwelling units, 195 units would be located on the western portion of the site and 240 units would be located on the eastern portion of the site.

Figure 1
Regional Vicinity Map

Figure 2
Project Site Boundaries

Figure 3
Conceptual Land Use Plan A

Unit Type	Parcel "A"	Parcel "B"	Total	% of Total
Tuck-Under Multi-Family	98	72	170	34.4%
Traditional Townhomes	73	79	152	30.7%
Tuck-Under Townhomes	101	72	173	34.9%
Total Units	272	223	**495**	**100%**
Total Acres	15.35	13.25	**28.6**	
Open Space (in ac)	5.20	4.13	**9.33**	
Gross Residential Development Area (in ac)			**28.6**	
Gross Residential Density (du/ac)			**17.3**	

Figure 4
Conceptual Land Use Plan B

Unit Type	Parcel "A"	Parcel "B"	Total	% of Total
Tuck-Under Multi-Family	98	72	170	34.4%
Traditional Townhomes	73	79	152	30.7%
Tuck-Under Townhomes	101	72	173	34.9%
Total Units	272	223	**495**	**100%**
Total Acres	15.35	13.25	**28.6**	
Open Space (in ac)	**5.20**	**4.13**	**9.33**	
Gross Residential Development Area (in ac)			**28.6**	
Gross Residential Density (du/ac)			**17.3**	

Figure 5
2017 Approved Site Plan West

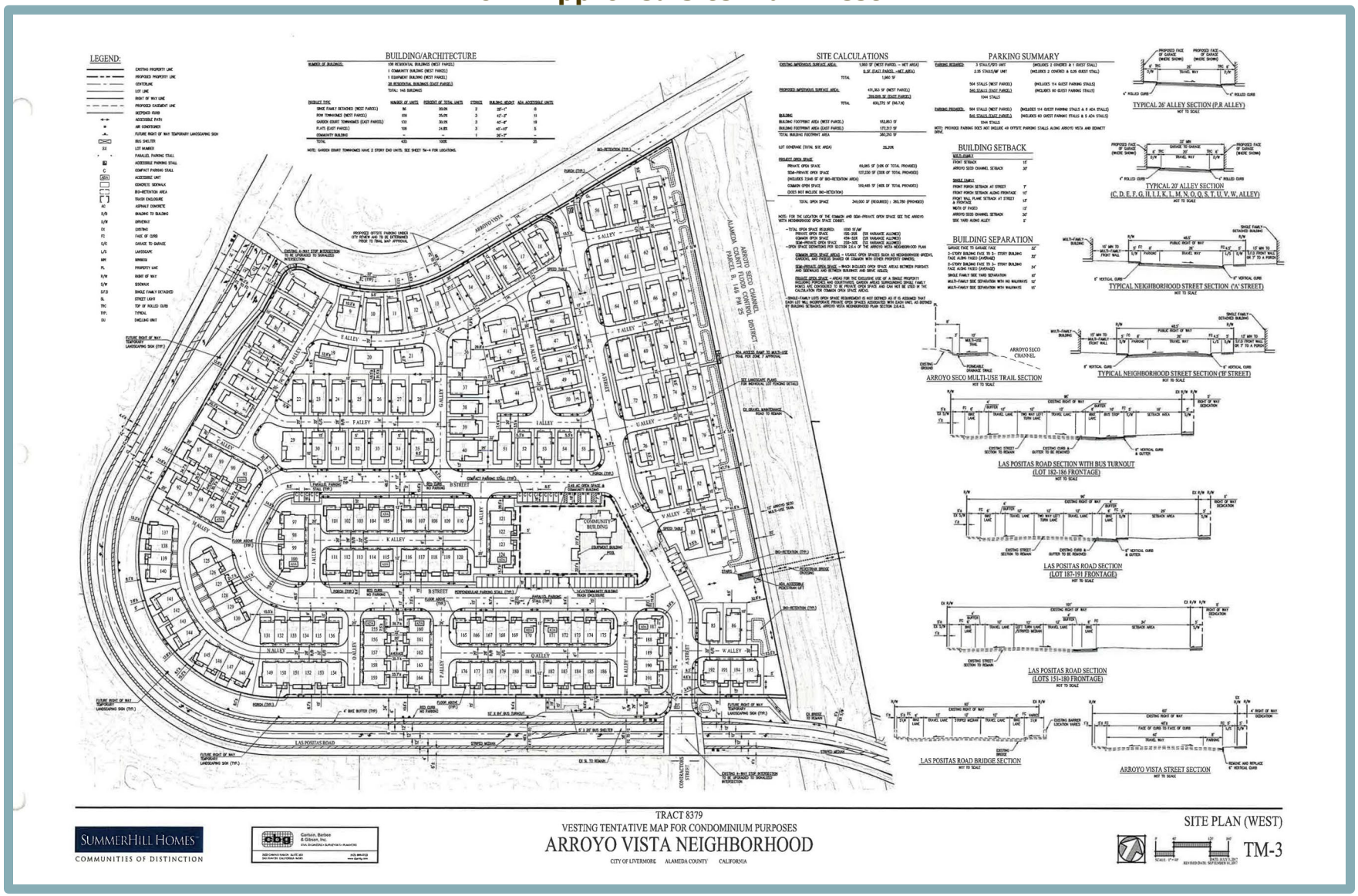
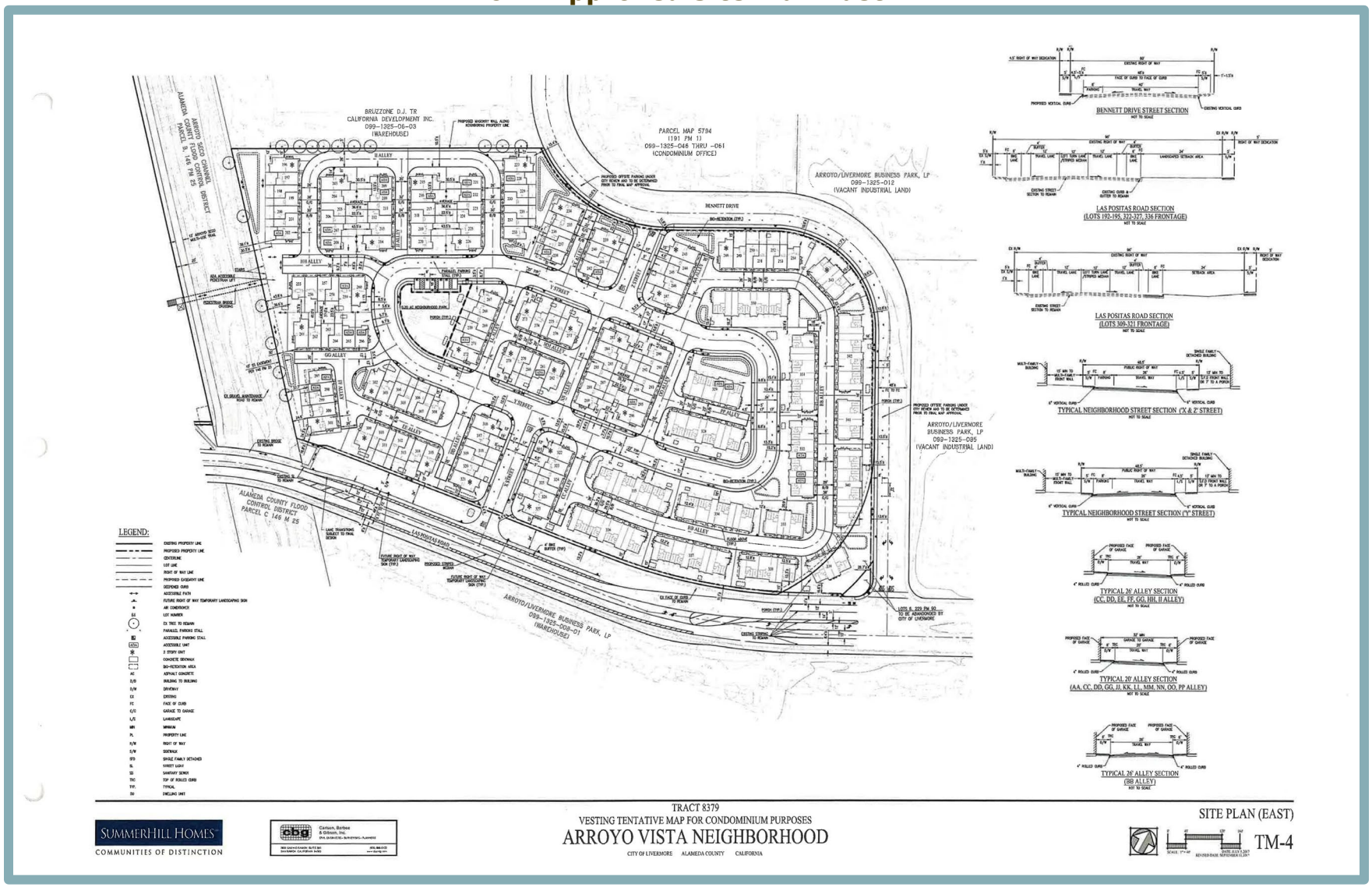


Figure 6
2017 Approved Site Plan East



The single-family detached houses would be two-story and have a maximum height of 30 feet, and the townhomes and condominiums would be three-story and have a maximum height of 45 feet.

In addition, the 2017 approved project included a 0.5-acre neighborhood park on the western portion of the site with a play area, pergola, picnic tables, community building, outdoor kitchen, outdoor fireplace, seating, and pool area. The eastern portion of the site included an approximately 0.2-acre neighborhood park with a community garden, barbeque area, and play area. Similar to the Arroyo Vista Neighborhood Plan land use concept, the 2017 approved project included a multi-use trail on the west side of the Seco Arroyo Channel and an eight-foot-wide pedestrian bridge across the Arroyo Seco Channel, which would connect the western and eastern neighborhoods.

C. PROJECT DESCRIPTION

The current proposed project would involve minimal modifications to the approved 2017 residential project and IS/MND, as amended in 2017. Specifically, the proposed project would include the addition of a third story to the 86 single-family detached residences on the western portion of the site that were originally proposed as two-story buildings, and the elimination of the pedestrian bridge component. The addition of a third story to the 86 single-family detached residences on the western portion of the site (see Figure 7) would accommodate the square footage and bedroom needs of the current market. The proposed modification would increase the maximum allowed height of the single-family detached residences from 30 feet to 45 feet. The revisions would be to the architecture only, with special care to match previous design styles and corner enhancements visible from the public realm. The number of lots and streets would remain within substantial conformance to previous approvals.

As shown in Figure 5 and Figure 6, the pedestrian bridge was designed to connect the western and eastern neighborhoods by crossing the Arroyo Seco Channel, which is owned and maintained by Zone 7 Water Agency. However, an aerial easement could not be obtained, which would allow for construction, access, and maintenance of the pedestrian bridge over the Arroyo Seco Channel. Thus, the proposed project would eliminate the pedestrian bridge component from the previously approved project, and the original bridge landing areas would be improved as pocket parks to serve as additional outdoor amenity spaces, including dining and barbeque areas (see Figure 8).

The City of Livermore General Plan designates the site as Light Intensity Industrial (LII)/Urban High Residential, 14 to 18 dwelling units per acre (UH-3), and the site is zoned Planned Development Residential (PDR-16-004). The proposed project would not involve any changes to the land use designations for the site. However, revisions to the PDR-16-004 design standards and Site Plan Design Review would be required to allow for the proposed three-story single-family detached residences and elimination of the pedestrian bridge component. In addition, amendments to the Arroyo Vista Neighborhood Plan, Development Agreement, Site Plan Design Review, and Conditions of Approval would be required for the elimination of the pedestrian bridge.

D. RATIONALE FOR PREPARATION OF THE ADDENDUM

In determining whether an addendum is the appropriate document to analyze the modifications to the project and its approval, CEQA Guidelines Section 15164 (Addendum to an EIR or Negative Declaration) states:

Figure 7
Single-Family Detached Houses

Figure 8
Proposed Pocket Park Improvements

(a) The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

(b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

(c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.

(d) The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.

(e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

New significant effects or other grounds require preparation of a subsequent EIR in support of further agency action on a project pursuant to Public Resources Code Section 21166 and State CEQA Guidelines Sections 15162 and 15163. Under the guidelines, a subsequent or supplemental EIR or Mitigated Negative Declaration shall be prepared if any of the following criteria are met:

(a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more

significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

E. USE OF A PRIOR ENVIRONMENTAL DOCUMENT:

The California Supreme Court has held that a lead agency has the responsibility of initially deciding whether an original environmental document retains "some relevance" to the ongoing decision-making process. The City of Livermore has determined that the 2007 IS/MND as amended in 2017 for the approved project is relevant and has prepared an addendum to that document to evaluate the proposed project.

Based on the above, in accordance with Sections 15162 through 15164 of the CEQA Guidelines, the proposed project would not require major revisions to the 2007 IS/MND, as amended in 2017, if the proposed project would not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The analysis that follows concludes that none of the conditions identified in CEQA Guidelines Sections 15162 and 15163 apply to the proposed project. Thus, preparation of an addendum would provide the appropriate level of environmental review.

In cases where an approved project has already undergone environmental review, and the environmental document has been certified by the lead agency, the lead agency can restrict its review to the incremental effects of the modified project, rather than having to reconsider the overall impacts of the project. In other words, if the project under review constitutes a modification of a previously approved project subjected to environmental review, then the "baseline" for purposes of CEQA is adjusted such that the originally approved project is assumed to exist.[1]

F. DISCUSSION

The following sections provide discussions of any potential impacts associated with the proposed project beyond those previously identified in the 2007 IS/MND as amended in 2017. Given the limited scope of changes that would occur as a result of the proposed project in comparison to the 2017 approved project, this Addendum provides a detailed evaluation of select CEQA topics potentially affected by the changes, including Aesthetics, Air Quality, Greenhouse Gas Emissions, Energy, Noise, Transportation, Land Use and Planning, Population and Housing, Public Services, Utilities, and Hydrology and Water Quality. The remaining CEQA topics are appropriately discussed at a lesser level of detail.

Aesthetics

The proposed project would modify the previously approved 2007 IS/MND, as amended in 2017 by adding a third story to the 86 single-family detached residences on the western portion of the site that were originally proposed as two-story buildings. As a result, the 86 detached residences would more closely match the design of the three-story, attached residences proposed on the eastern and western portions of the project site. The additional story would increase the maximum

[1] See Michael H. Remy et al. *Guide to CEQA, 11th Edition*. Point Arena: Solano Press Books (2007), p. 207; Stephen L. Kostka and Michael H. Zischke. *Practice Under the Environmental Quality Act, Second Edition* (Vol. 1). Oakland: Continuing Education of the Bar (2018), p. 12-32; *Benton v. Board of Supervisors* (1st Dist. 1991) 226 Cal. App. 3d 1467.

building height for the single-family residences located on the western portion of the project site from 30 feet to 45 feet. The revisions are to the architecture only, with special care to match previous design styles and corner enhancements visible from the public realm. The proposed project would be subject to the same rules governing aesthetics and glare. Furthermore, the previous IS/MND, as amended in 2017, concluded that scenic vistas are not visible from the site or surrounding properties, and, due to the area surrounding the project site being heavily developed, a less-than-significant impact would occur from the proposed project buildout. The visual character of the proposed project would be consistent with what was intended for the site within the 2007 IS/MND, as amended in 2017. Accordingly, any impacts associated with aesthetics as a result of the proposed project would remain the same as what was previously identified in the 2007 IS/MND, as amended in 2017, which concluded mitigation measures were not needed. Thus, based on the above, the proposed project would not result in any changes, new circumstances, or new information that would involve new significant impacts or substantially more severe impacts related to aesthetics from what has been anticipated for the project site in the 2007 IS/MND, as amended in 2017.

Air Quality, Energy, and Noise

Because the proposed project would not involve any changes to the anticipated land uses associated with the site and would result in the same area of disturbance and number of units, the same level of air pollutant emissions, energy usage, and noise associated with both construction and operation of the proposed project would occur as what has already been anticipated for the project site and analyzed in the 2007 IS/MND, as amended in 2017. In addition, statewide standards related to air quality and energy consumption have progressively become more stringent over time, such as the 2022 California Building Standards Code (CBSC), including the 2022 Building Energy Efficiency Standards Code, and the California Green Building Standards Code (CALGreen Code). Such standards, as well as technological innovations, would ensure that as cumulative development occurs under the increasingly stringent regulations, air pollutant emissions and energy use associated with such cumulative development is anticipated to be reduced over time. The proposed project would be required to comply with all applicable standards and regulations associated with air quality and energy, including the most recent version of the CALGreen Code and California Building Energy Efficiency Standards Code. The applicable CEQA thresholds of significance have not changed related to air quality, energy, and noise since the 2007 IS/MND, as amended in 2017, were prepared. Therefore, impacts associated with air quality, energy, and noise, as a result of the proposed project would be the same as what was previously identified, and the mitigation measures for impacts related to noise set forth in the 2007 IS/MND, as amended in 2017, would remain applicable.

Based on the above, the proposed project would not result in any changes, new circumstances, or new information that would involve new significant impacts or substantially more severe impacts related to air quality, energy, or noise from what has been anticipated for the project site in the 2007 IS/MND, as amended in 2017. Implementation of the mitigation measures in the 2007 IS/MND, as amended in 2017, would continue to ensure impacts would be less than significant.

Greenhouse Gas Emissions

Because the proposed project would not involve any changes to the anticipated land uses associated with the site and would result in the same area of disturbance and number of units, the same level of greenhouse gas (GHG) emissions associated with both construction and operation of the proposed project would occur as what has already been anticipated for the project site and analyzed in the 2007 IS/MND, as amended in 2017. In addition, as noted above statewide standards related to air quality and energy consumption have progressively become more

stringent over time, such as the 2022 California Building Energy Efficiency Standards Code and the CALGreen Code. Such standards, as well as technological innovations, are also anticipated to reduce GHG emissions over time.

In addition to advancements in statewide standards and regulations, since the 2007 IS/MND and 2017 Addendum were approved, the City has taken numerous actions towards promoting sustainability within the City, including updating the City's Climate Action Plan (CAP). The City adopted the updated CAP on November 28, 2022. The Bay Area Air Quality Management District (BAAQMD) thresholds of significance related to GHG emissions have also been updated since the 2007 IS/MND and 2017 Addendum were approved. According to the BAAQMD's current thresholds of significance for GHG emissions, a project must either include specific project design elements related to buildings and transportation or be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b). The City of Livermore 2022 CAP meets the criteria to be a GHG reduction strategy under CEQA Guidelines Section 15183.5(b). Therefore, the analysis herein, similar to the analysis within the 2017 Addendum, is based on consistency with City's CAP.

The 2022 CAP is intended to create a roadmap to achieve emissions reductions of 40 percent below 1990 levels by 2030, and carbon neutrality (i.e., net zero carbon emissions) by 2045. The CAP contains mitigation strategies and actions, consistent with State climate mitigation targets, which were developed to reduce the City's GHG emissions to reach its adopted reduction targets for 2030 and 2045. The project's consistency with the applicable mitigation strategies and actions of the 2022 CAP is assessed in Table 1 below.

Table 1
Project Consistency with the City of Livermore CAP

Strategies and Actions	Consistency Discussion
Strategy D-1: Improve water conservation and reuse.	All landscaping improvements would be required to comply with Section 13.25 of the Municipal Code, Water Efficient Landscape, and would be irrigated by an automatic irrigation system. The proposed project would be required to comply with Section 4.301 of the CALGreen Code to conserve water used indoors, outdoors, and in wastewater conveyance. Therefore, the proposed project would be consistent with Strategy D-1.
Action D-1.3: Continue implementing the Water Efficient Landscape Ordinance.	As discussed above, all landscaping improvements would be required to comply with Section 13.25, Water Efficient Landscape, of the City's Municipal Code. Therefore, the proposed project would be consistent with Action D-1.3.
Action F-1.5: Require new hardscape to be permeable.	Page 46 of the Livermore CAP recognizes that for Action F-1.5, the City must first update standards for new development hardscape to be consistent with CALGreen Tier 1 and/or increase the current fee for installation of new impervious surfaces. The City has not yet updated its standards and, thus, consistency with Action F-1.5 is not required.
Strategy B-1: Require new buildings to be all-electric and incentivize electrification retrofits of existing buildings.	According to Section 15.26.200 of the City of Livermore Municipal Code, all newly constructed buildings within the City are required to be all-electric. The project applicant has committed to the prohibition of natural gas infrastructure in the proposed project design, in compliance with Section 15.26.200 of the City of Livermore Municipal Code. Thus, the proposed project would be consistent with Strategy B-1.
Action B-1.1: Require new construction to be all-electric.	See consistency discussion for Strategy B-1.

Table 1 Project Consistency with the City of Livermore CAP	
Strategies and Actions	**Consistency Discussion**
Action T-1.1: Expand EV infrastructure to support EV adoption.	The 2022 CBSC, as well as the City's Reach Code amendments to the CBSC, require new developments to include the necessary electrical infrastructure for electric vehicle (EV) charging stations. The proposed project would be required to comply with the 2022 CBSC or the City's Reach Code, whichever is the more stringent standard at the time of construction. For example, under the City's Reach Code, new construction of one- and two-family dwellings and townhouses with attached private garages are required to provide two Level 2 EV Ready spaces, where Level 2 EV Ready means a listed raceway to accommodate a dedicated 208/240-volt, 40-amp circuit. Given the proposed project's required compliance with the 2022 CBSC and/or the City's Reach Code, the proposed project would be consistent with Action T-1.1.
Strategy W-1: Reduce the amount of waste that is landfilled.	The project would be required to comply with all applicable provisions of Chapter 8.08, Solid Waste Management, of the City's Municipal Code. In addition, as discussed below, the proposed project would be required to comply with the CALGreen Code's construction waste diversion standards during construction of the proposed project. Therefore, the proposed project would generally be consistent with Strategy W-1.
Action W-1.5: Reduce construction waste.	The CALGreen Code requires all new construction projects to recycle and/or salvage for reuse a minimum 65 percent of all non-hazardous construction and demolition waste. The proposed project would be required to comply with the CALGreen Code standards, and, therefore, would be consistent with Action W-1.5.
Source: City of Livermore Climate Action Plan, 2022.	

As presented in the table, the proposed project would comply with the applicable mitigation strategies and actions set forth in the 2022 CAP and would, therefore, be consistent with the local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b).

Based on the above, the proposed project would not result in any changes, new circumstances, or new information that would involve new significant impacts or substantially more severe impacts related to GHG emissions from what has been anticipated for the project site in the 2007 IS/MND, as amended in 2017.

Transportation

Because the proposed project would not involve any changes to the anticipated land uses associated with the site and would result in the same area of disturbance and number of units, the same level of traffic associated with both construction and operation of the proposed project would occur compared to what has already been anticipated and analyzed for the project site in the 2007 IS/MND, as amended in 2017. Additionally, elimination of the pedestrian bridge component would not result in any new significant impacts or substantially more severe impacts. The pedestrian bridge was intended to be a private amenity for the future on-site residents of the Arroyo Vista Neighborhood only, serving to provide connection between the eastern and western portions of the site. The pedestrian bridge was not intended to provide regional connectivity or connectivity to off-site areas. For example, the pedestrian bridge is not identified in the General Plan or the City's Bicycle, Pedestrian, and Trails Active Transportation Plan (ATP). The multi-use trail along the west side of the Arroyo Seco Channel is identified in the ATP, which would remain

with the proposed project. In addition, pedestrian connectivity between the eastern and western portions of the site would still be available along Las Positas Road, located just south of where the pedestrian bridge was previously proposed. Internal connectivity throughout the eastern and western portions of the site would also continue to be provided with the proposed project. Wayfinding amenities are proposed to help enhance the path of travel for residents from Las Positas Road into the project. Therefore, impacts associated with transportation as a result of the proposed project would be the same as what was previously identified, and the mitigation measures set forth in the 2007 IS/MND would remain applicable.

Based on the above, the proposed project would not result in any changes, new circumstances, or new information that would involve new significant impacts or substantially more severe impacts related to transportation from what has been anticipated for the project site in the 2007 IS/MND, as amended in 2017. Implementation of the mitigation measures in the 2007 IS/MND and 2017 Addendum would continue to ensure impacts would be less than significant.

Land Use, Planning, Population, Housing, Public Services, and Utilities

Because the proposed project would not involve any changes to the anticipated land uses or number of residential units for the site compared to what was anticipated in the 2007 IS/MND, as amended in 2017, an increase in housing and/or population associated with buildout of the site would not occur, which would result in the same level of demand for public services and utilities as previously anticipated and planned for the site. Additionally, the proposed project would adhere to Section 15.26.200 of the City of Livermore Municipal Code which requires all newly constructed buildings within the City to be all-electric. Therefore, overall, impacts associated with land use, planning, population, housing, public services, and utilities as a result of the proposed project would be the same as what was identified in the 2007 IS/MND, as amended in 2017.

Based on the above, the proposed project would not result in any changes, new circumstances, or new information that would involve new significant impacts or substantially more severe impacts related to land use and planning, population and housing, public services, or utilities from what has been anticipated for the project site in the 2007 IS/MND, as amended in 2017. .

Hydrology and Water Quality

The disturbance area associated with the proposed project would be the same as what has been anticipated for the site in the 2007 IS/MND, as amended in 2017. Accordingly, short-term construction-related impacts associated with hydrology and water quality as a result of buildout of the project site would be the same as what has been anticipated previously. In addition, the same amount of impervious surface area and associated stormwater runoff would be expected on the site as a result of the proposed project compared to what is already anticipated. Therefore, the same impacts related to operational hydrology and water quality would occur under the proposed project as compared to what was anticipated for the site in the 2007 IS/MND, as amended in 2017. Overall, impacts associated with hydrology and water quality as a result of the proposed project would be the same as what was identified in the 2007 IS/MND, as amended in 2017.

Based on the above, the proposed project would not result in any changes, new circumstances, or new information that would involve new significant impacts or substantially more severe impacts related to hydrology and water quality from what has been anticipated for the project site in the 2007 IS/MND, as amended in 2017.

Remaining Impact Areas

Because the disturbance area associated with the proposed project would be the same as what is anticipated for the site in the 2007 IS/MND, as amended in 2017, the proposed project would involve the same level of impacts associated with buildout of the site related to the conversion of or conflicts associated with agricultural land/farmland, the potential discovery of previously unknown cultural or tribal cultural resources, the suitability of soils on the site for development, the presence of potentially hazardous conditions, mineral resources, recreation, and exacerbation of wildfire risks. For similar reasons, impacts associated with biological resources due to development of the site would also be the same as what is anticipated for the site in the 2007 IS/MND, as amended in 2017. However, because the pedestrian bridge would not be constructed under the proposed project, any impacts and associated mitigation measures identified in the 2007 IS/MND specific to the pedestrian bridge (e.g., Mitigation Measure 7.c.1 from the 2007 IS/MND) would no longer be required. All other mitigation measures related to biological resources set forth in the 2007 IS/MND and 2017 Addendum would remain applicable to the proposed project.

Accordingly, the proposed project would not result in any changes, new circumstances, or new information that would involve new significant impacts or substantially more severe impacts related to agriculture resources, biological resources, cultural and tribal cultural resources, geology and soils, hazards and hazardous materials, mineral resources, recreation, and wildfire from what has been anticipated for the project site in the 2007 IS/MND, as amended in 2017. Implementation of the mitigation measures set forth in the 2007 IS/MND and 2017 Addendum would continue to ensure impacts would be less than significant.

G. CONCLUSION

As established in the discussions above regarding the potential effects of the proposed project, the proposed project would not result in any new significant information of substantial importance, new significant impacts, a substantial increase in the severity of previously identified significant impacts, or new mitigation measures from what was analyzed in the 2007 IS/MND, as amended in 2017. As such, the proposed project would not result in any conditions identified in CEQA Guidelines Section 15162, and a subsequent IS/MND is not required.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT 24-002, FOR THE ARROYO VISTA RESIDENTIAL DEVELOPMENT, TO REMOVE THE ARROYO VISTA NEIGHBORHOOD PLAN'S BRIDGE REQUIREMENT AND AMEND FIGURES TO REMOVE THE BRIDGE

In December 2016, the City of Livermore ("City") received an application from SummerHill Livermore LLC to develop the approximately 29-acre vacant parcel located at the southeast corner of the Arroyo Vista and Las Positas Road intersection with a residential development project.

On January 19, 2023, TH Arroyo Vista LLC ("Applicant") acquired the project property from SummerHill Livermore LLC to develop the approximately 29-acre vacant parcel located at the southeast corner of the Arroyo Vista and Las Positas Road intersection with a residential development project, consistent with the 2017 approval.

On January 25, 2024, the City received a modified application from the Applicant for approximately 15-acres of the site that is currently being graded to allow construction of the residential buildings that are not subject to this amendment. The entitlements for the modified Project include Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The modified Project would remove the bridge requirement due to it becoming infeasible. The modified Project would develop at the intersection of southeast of Las Positas and Arroyo Vista Road, consistent with the 2017 approval. The modified Project would be increased from two stories to three stories and allow a height of up to 45 feet on the 86 for sale single-family residential homes. The Project also includes a Development Agreement Amendment between the City and Developer, Planned Development rezoning, and Specific Plan Amendments. The Development Agreement Amendment removes the bridge requirement that became infeasible due to liability issues. In place of the bridge landings, the Project proposes two pocket parks. Additionally, an in-lieu contribution of $2,000,000 would be provided to the Community Benefit Fund and the Social Opportunity Endowment Fund. The Planned Development rezoning removes the bridge requirement as well and allows for building heights of up to 45 feet and 3 stories. Finally, the Specific Plan amendments removes the bridge requirement.

The proposed Arroyo Vista Neighborhood Plan ("Neighborhood Plan") amendments would allow the Project to be implemented by removing the bridge requirement due to the construction of the bridge becoming infeasible. Removing the bridge requirement would facilitate the Project.

On July 16, 2024, at a duly noticed public hearing, the Planning Commission considered the Project, heard public testimony, made the necessary findings, and adopted Planning Commission resolution No. 25-24, attached hereto as Exhibit A, recommending the City Council approve the Project.

On September 9, 2024, the City Council held a duly noticed public hearing to consider the Project, Planning Commission and staff recommendations, all public comments and testimony, and findings.

Together with this resolution, the City Council concurrently considered resolutions for Site Plan Design Review Modification (SPDRM) 24-002 and ordinances for: 1) the Project's Development Agreement (DAA) 24-001 application; and 2) the Project's Planned Development rezoning (PD) 24-001 application.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the City Council reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore has considered the Record Evidence and approved a resolution adopting the Arroyo Vista Neighborhood Project Addendum to the Arroyo Vista Neighborhood Plan Initial Study/Mitigated Negative Declaration [IS/MND] (SCH #2007052028), as amended by the 2017 addendum, consistent with the requirements of the California Environmental Quality Act ("CEQA").

BE IT FURTHER RESOLVED that the City Council of the City of Livermore has considered the findings made in Planning Commission Resolution No. 25-24, attached hereto as Exhibit A, and the City Council hereby adopts the same findings by this reference and incorporates them as their own findings as part of this resolution, and as described below:

1. A Specific Plan may only be amended if first found consistent with the General Plan in compliance with Government Code Section 65454.

   Findings: The Project proposes a Specific Plan Amendment to: 1) Amend Arroyo Vista Neighborhood Plan to remove the bridge requirement; and 2) Amend the figures to remove the bridge. Each component of the Amendment is consistent with the General Plan, as follows:

   Consistency with Open Space and Conservation

   The Project site has a General Plan land use designation of Light Intensity Industrial (LII), Urban High Density Residential (UH-3), and Open Space (OS) floating designation. The Project is consistent with the land use designation and implements the General Plan goals for UH-3 and OS. The proposed amendments would facilitate the Project, which removes the

bridge requirement due to the construction of the bridge becoming infeasible. For example, removing the bridge requirement would reduce the maintenance obligations for the City by $73,000 per year. Per the General Plan Open Space and Conservation Element, Objective OSC-5.4, Policy 1: The City shall continue to encourage public access to, and maintenance of, existing recreational trails in the Planning Areas. The City would ultimately be responsible for the maintenance of the bridge over the public walking trail. The tax revenue generated from the property tax would help to offset maintenance costs such as the benches along the trail. The maintenance costs for the bridge are substantial and the revenue from property tax would not offset the cost of maintenance for the bridge. Therefore, amending the bridge requirement would facilitate the proposed Project.

Consistency with Economic Development and Fiscal Element

Furthermore, the proposed amendment would facilitate the Project by sustaining a level of maintenance expenses that are consistent with the tax base generated by the residential taxes. The maintenance obligations of the bridge are estimated to be $73,000 a year. Per the General Plan Economic Development and Fiscal Element, Objective ED-3.1, P2: The City shall strive to maintain taxes and fees at a level adequate to provide necessary services. Amending the bridge requirement creates consistency between the Project and the Economic Development and Fiscal Element by ensuring that the tax base can support the maintenance expenses.

BE IT FURTHER RESOLVED that, based upon the City Council's own independent review of the Record Evidence and considerations, the City Council hereby approves Specific Plan Amendment (SPPA) 24-002, attached hereto as Exhibit B for the Arroyo Vista Residential Development.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the Planning Manager to file a Notice of Determination with the Alameda County Clerk.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore finds that the effective date of this resolution shall be the effective date of Specific Plan Amendment (SPPA) 24-002.

The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, in Livermore California.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Planning Commission Resolution No. 25-24
Exhibit B – Arroyo Vista Neighborhood Plan Amendments

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE SITE PLAN DESIGN REVIEW MODIFICATION (SPDRM) 24-002, DEVELOPMENT AGREEMENT AMENDMENT (DAA) 24-001, PLANNED DEVELOPMENT REZONING (PD) 24-001, AND SPECIFIC PLAN AMENDMENT (SPPA) 24-002 FOR THE ARROYO VISTA NEIGHBORHOOD DEVELOPMENT

On October 11, 2017, the City received an application from LLC SummerHill to develop the approximately 29-acre vacant parcel located at the southeast corner of Arroyo Vista and Las Positas Road intersection with a residential development project.

On January 25, 2024, the City received an amended application from the Applicant for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The Project would develop vacant land located southeast of Las Positas and Arroyo Vista Road intersection, implementing the Arroyo Vista Neighborhood Plan ("Project"). The Project includes 86 residential units, amenity space, two approximately 1.5-acre neighborhood parks with an additional approximately 0.5 acres of pocket parks street improvements, street trees, and utility infrastructure. The residential units consist of for sale detached single-family homes. The Project also includes a Development Agreement between the City and Developer, and Neighborhood Plan amendments.

On July 16, 2024, the Planning Commission held a duly noticed public hearing to consider the Project, staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the Planning Commission reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore has considered the Record Evidence and recommends the City Council adopt a resolution adopting an Addendum to the 2007 Arroyo Vista Neighborhood Plan, as amended in 2017 (#2007052028), consistent with the requirements of the California Environmental Quality Act ("CEQA").

BE IT FURTHER RESOLVED, with respect to Site Plan Design Review Modification 24-002, the Planning Commission finds based upon the information presented that:

1. The proposed development will be permitted within the subject zone.

Findings: The Project Site is zoned Planned Development (PD) 16-004, which permits

residential uses. The Project still proposes single-family development consistent with the PD with the PD amendments to the single-family homes as described below, a variety of open space areas and amenities, including two neighborhood parks, paseos, two pocket parks, and a public trail. All of the Project's proposed uses are permitted by the Project Site's applicable zoning designations.

2. The proposed development will be designed such that:

   a. The project will not be detrimental to the public health, safety, or general welfare, and not detrimental to adjacent property;
   b. Architectural design and functional plan of the structure(s) and related improvements are of reasonable aesthetic quality and compatible with adjacent developments;
   c. Structure(s) and related improvements are suitable for the proposed use of the property and provide adequate consideration of the existing and contemplated uses of land and orderly development in the general area of the subject site; and
   d. The project's site plan and design is consistent with the City's Design Standards and Guidelines.

Findings:

The proposed Project will not be detrimental to the commercial and light industrial uses of adjacent properties. The Project provides adequate emergency vehicle access throughout the site and necessary ariel access for fire access on units located in alleyways that do not allow for truck turnaround. Water and sewer service will be provided to all units and stormwater will be appropriately managed on site. The site layout is suitable for trash pickup and adequate space will be provided in each residential unit garage buildings for all waste streams.

The Project proposes a variety of architectural styles, emphasizing traditional designs and building materials. The design will feature traditional architectural styles such as Craftsman, Prairie and Ranch.

The proposed traditional architectural styles incorporate design features and materials that will be compatible with existing and future developments in the surrounding areas. Additionally, the Project utilizes varied building materials, neutral colors, and varied building facades to reduce massing, distinguish each building, and provide a high degree of visual interest, variation, and articulation. The proposed color palette and design are compatible with the existing neutral and earth tones used in neighboring industrial and commercial developments.

The Project site is vacant with some preliminary grading approved. The proposed structures and improvements to be developed would be suitable for the Project's proposed mix of uses. The structures and improvements would be compatible with the industrial uses to the north and south of the Project site and commercial uses to west of the Project site across Las Positas Road and the business park uses to the east of the Project site across Bennett Drive. Additionally, the arrangement of structures and

improvements provides for appropriately scaled and orderly development and circulation throughout the Project Site.

The Project proposes a variety of architectural styles that vary by unit throughout the architectural site plan, emphasizing modern designs and building materials that are consistent with the Neighborhood Plan and the City's design standards and guidelines. The single-family homes provide a mix of board and batten, brick, gable trim, and decorative corbels.

The building's fenestration promotes order and variety. Massing is reduced through wall plane changes and belly bands. Additionally, the buildings use brick, stone, and other materials to provide visual interest.

The Project is also conditioned to conform with the Mitigation, Monitoring, and Reporting Program (MMRP) adopted with the certified 2007 Initial Study/Mitigated Negative Declaration, as amended in 2017. The Project is not detrimental to adjacent properties and considers adjacent uses in the general area. All project frontages contain substantial landscaping and trees to appropriately screen the proposed buildings. The Project meets applicable parking standards. The residential use promotes synergy with surrounding uses, locating residents close to job centers, commercial uses, and will not produce any dust, odor, noise, or glare during regular operations. The structures are suitable for the site and the site plan is consistent with the City's Design Standards and Guidelines.

3. The proposed development is designed to include the following criteria, as applicable:

   a. Compliance with Chapter 9.07 of the Development Code (Site Plan and Design Review), Municipal Code Title 15 (Buildings and Construction), and any other applicable City regulations and policies;
   b. Efficient site layout and design;
   c. Compatible and appropriate in scale to neighboring properties and developments.
   d. Efficient and safe public access (both pedestrian and vehicular) and parking;
   e. Appropriate and harmonious arrangement and relationship of proposed structures and signs to one another and to other development in the vicinity, based on good standards of design;
   f. Appropriate relationship to land use and development of adjacent properties, including topographic and other physical characteristics of the land;
   g. Proper site utilization and the establishment of a physical and architectural relationship to existing and proposed structures on the site;
   h. Compatible architectural style with the character of the surrounding area, both to avoid repetition of identical design where not desired, and to ensure compatibility in design where desired;
   i. Harmonious relationship with existing and proposed developments and the avoidance of both excessive variety and monotonous repetition;
   j. Compatible in color, material, and composition of the exterior elevations to neighboring visible structures;
   k. Appropriate exterior lighting which provides for public safety and is not of a nature

that will constitute a hazard or nuisance to adjacent properties;

l. Compatible in scale and aesthetic treatment of proposed structures with public areas;
m. Appropriate open space and use of water efficient landscaping; and
n. Consistent with the General Plan and any applicable Specific Plan.

Findings:

The proposed residential development is compliant with the Project site's zoning and would comply with all building code requirements and any additional applicable City regulations pertaining to the development and operation of the Project.

The design, location, size, and operating characteristics of the Project makes the Project Site suitable for the type, density, and intensity of use being proposed. Non- residential spaces such as the pocket parks, paseos, and walking trail, will provide residents and guests with areas for leisure, exercise, and gathering consistent with the intent of the zoning to provide recreational uses for residents.

The Project is of compatible and appropriate scale to neighboring properties and development. Directly adjacent to the property to the east is a business park. North of the Project Site across Arroyo Vista is an existing commercial development of similar scale. East of the Project Site across the Arroyo Seco Channel is vacant land that will be developed with the remaining portions of the 2017 approval, which also features a variety of residential unit mixes and amenities. Accordingly, the Project would be compatible with existing neighboring developments.

A street network has been approved with the 2017 approval and the street network proposed is consistent with that design. Vehicular access would be provided via two access points. One point of vehicular ingress and egress would be located along Las Positas Road, and one point of vehicular ingress and egress would be located along Arroyo Vista. The project includes one new public street and several new private alleys that would be internal to the development, consistent with the 2017 approval. Five pedestrian pathways are proposed throughout the Project Site to maximize connectivity and accessibility for pedestrians.

The Project Site's proximity to major roadways and highways and the internal roadways within the Project provide sufficient public and emergency vehicle access. The Project would provide 273 parking spaces within private garages, guest parking spaces and public stalls. A bus stop would be located along Las Positas Road, consistent with the 2017 approval. Accordingly, the Project would provide efficient and safe public access.

The homes are strategically arranged and designed to be visually appealing, functional, and to facilitate pedestrian and vehicular traffic throughout the Project site by providing pedestrian entries in between homes and utilizing loop streets for vehicular traffic.

The adjacent property to the east consists of similar, mostly flat, topographic conditions. The proposed land use and development would be compatible with adjacent properties. The residential development would be carefully configured to connect with existing city streets and proposed internal streets, allowing for efficient circulation and access. Additionally, the Project would feature a pedestrian connection to the walking trail along the Arroyo Seco Channel.

The Project site does not contain any existing structures. The Project's configuration is harmonious with neighboring developments, with a consistent density throughout the site and special corner treatments to reduce massing and increase interest.

The proposed residential units would be properly configured with respect to existing Project Site conditions. There is 1 product type with 3 different floor plans. The homes will feature traditional architectural styles. The combination of architectural styles creates visual interest and variety, consistent with the Neighborhood Plan. Additionally, wrapped porches have been used at corner units to reduce massing and provide space activation.

The Project is designed such that it will be well integrated with the adjacent Industrial and Commercial development. Features like a walking trail provides connectivity to both the Industrial and Commercial. The Project features a variety of unit mixes and types and community open space, consistent with the Neighborhood Plan. The architectural styles and color palette is compatible with the natural colors used in neighboring developments, avoiding excessive variety. At the same time, the Project maintains its own unique character that creates neighborhood identity and incorporates residential uses into.

The composition of buildings and exterior elevations are compatible with neighboring industrial and commercial uses. The proposed modern and American architectural styles incorporate design features and materials that distinguish the Project from surrounding developments, while complementing other styles within the Neighborhood Plan and surrounding areas. The proposed color palette is compatible with existing natural tones used in neighboring residential developments. The proposed materials are appropriate, standard materials like those used in the surrounding product types from the Neighborhood Plan.

The Project provides appropriate exterior lighting that promotes public safety and is not of the nature that will constitute a hazard or nuisance to adjacent properties. Streetlights, consistent with City standards, are proposed throughout the Project's internal roads to provide internal lighting for pedestrian and vehicular travel. Pedestrian-scale lighting, in the form of bollard lighting, is concentrated primarily along paseos and pedestrian paths, with additional lighting at the entrance of the pedestrian path connecting from the eastern corner connecting Las Positas Road to the site, providing a safe and walkable connection from the eastern parcel to the western parcel. Roadway lights are proposed along Arroyo Vista and Las Positas Road. All lighting would all comply with the City's lighting standards and will be down shielded.

The Project proposes to provide 130, 616 square feet of open space. The Project would feature water-efficient landscaping throughout, resulting in 179,870 square feet of water efficient landscaping. The Estimated Total Water Use would not surpass the Maximum Allowed Water Allowance. The Project would not utilize recycled water due to a lack of connection to recycled water in the site area.

The Project is consistent with the General Plan in that the Project is located so as to create a consolidated pattern of urbanization, maximizing the use of existing public services and facilities (Objective LU-1.1); including the 2017 approval, it creates neighborhoods that include a range of housing types to meet the needs of all residents (Objective LU-1.2); it create neighborhoods near transit that include a mix of uses and a range of housing types to meet the needs of all residents (Objective LU-3.1). It maintains and enhances Livermore's urban design quality and encourage high quality design in all new development and redevelopment (Objective CC-2.1)It encourages and provides greater support for infill and higher density development in order to reduce Greenhouse Gas (GHG) emissions associated with vehicle travel (Objective CLI-1.2); it supports measures that encourage alternative modes of transportation in order to reduce emissions associated with vehicle travel (Objective CLI-1.3); it enhances existing water efficiency and conservation measures in order to reduce energy and GHGs associated with water use (Objective CLI-1.4); and, it expands the number of trees in Livermore in order to provide a larger carbon sink or area containing natural sources that retain more carbon than what those sources emit (Objective CLI- 1.6).

The Neighborhood Plan Goals and Policies are outlined under Site Plan in the Street Pattern, Access and Internal Circulation, Traffic, Parking, Trails, Pedestrian, and Bicycle Facilities, Open Space and Parks, Lot Layout, and Development Agreement Amendment, Site Plan and Design Review, and Neighborhood Design; these sections describe consistency with the Neighborhood Plan goals and policies.

BE IT FURTHER RESOLVED, with respect to Development Agreement Amendment 24-002, the Planning Commission finds based upon the information presented that:

1. The Development Agreement provides benefit to the City.

Findings: The Development Agreement Amendment will facilitate the development of the proposed Arroyo Vista Neighborhood development project (Project), which provide substantial benefits to the City.

This Project will also serve the best interests, and the public health, safety, and welfare of the residents of the City through: the provision of substantial public revenue in the form of an in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund and increased real property and sales taxes; the provision of land uses that are compatible with the physical nature of the Property and the surrounding area; a new community that provides an additional customer base to the surrounding commercial businesses; new trail and pocket parks that bolster

walkability and connectivity; More information regarding each City benefit is described below:

Alternative Transportation Infrastructure

The Agreement secures a walking trail that connects to private parks, providing greater connectivity and destinations for pedestrians and bicyclists. Walkability is a tenant of the Neighborhood Plan, and these amenities help to support the goals of the plan. Additionally, the build out of the trail aid in Active Transportation Plan goals as the trail along the Arroyo Seco Channel would eventually connect to the Iron Horse Tail, once completed by the City and other public and private partners.

Financial Contributions

The Agreement secures an additional $2,000,000 in public funding for the City's Community Benefit Fund and the Social Opportunity Endowment Fund.

2. The Development Agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable Specific Plan, and this Development Code.

Findings: The Project would not change the General Plan land use designation of Light Intensity Industrial (LII) and Urban High Density Residential (UH-3) and Arroyo Vista Neighborhood Plan; and would comply with the General Plan and Neighborhood Plans purpose, intent, goals, policies, and program. The Project is designed to develop a vibrant, safe, and walkable neighborhood with a range of architectural styles open space and recreational amenities, and citywide goals for and alternative transportation.

The Project would be consistent with the regulations and provisions of the Neighborhood Plan, inclusive of the proposed Specific Plan Amendment to remove the pedestrian bridge. The project proposes to remove the pedestrian bridge and provide two pocket parks in place of the bridge landings to meet the goals of the Neighborhood Plan by providing additional public space that contributes to the goals of recreational activities and walkability. In addition, the Project would contribute $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund to support community and housing needs.

Further, the Project ensures that its proposed land uses are compatible with existing neighboring industrial and commercial uses and transportation infrastructure by minimizing conflicts between adjacent land uses with respect to scale, safety, noise, privacy, transportation, and other potential nuisances and hazards. The Project proposes an emphasis on traditional architecture with traditional design elements and articulated facades, multiple architectural styles while providing cohesive design and site plan layout, and multiple material types, consistent with applicable General Plan and Neighborhood Plan goals and policies.

3. The Development Agreement Amendment complies with the requirements of Government Code Sections 65864 through 65869.5.

Findings: The Development Agreement Amendment between the City and the Developer regulates development of the Project site (Project Site) with the Project. Pursuant to the applicable requirements of the California Government Code governing development agreements, the Development Agreement Amendment specifies the duration of the agreement, the amount and timing of the payments for the in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund, and the number of as well as the location of the pocket parks, among other terms and applicable requirements for California development agreements. Review, approval, and recordation of the Development Agreement Amendment will furthermore be conducted in accordance with the provisions of Government Code sections 65864 through 65869.5.

Government Code Section 65867.5 requires that, if a Development Agreement includes a subdivision, that the Tentative Map complies with Government Code Section 66473.7, which mandates that sufficient water supply be made available for new subdivisions. The Project does not include a Tentative Map. Therefore, the Project complies with Government Code Section 65867.5.

BE IT FURTHER RESOLVED, with respect to Development Code Amendment (DCA), known as Planned Development (PD)24-002 throughout this document, the Planning Commission finds based upon the information presented that:

1. The proposed amendment is consistent with the General Plan and any applicable Specific Plan.

Findings: The Project proposes PD24-002 to: 1) Enable the approval of the Project's proposed increase of allowable building height to 45 feet and 3 stories high; and 2) Replace the existing Neighborhood Plan's requirement to provide a pedestrian bridge over the Arroyo Seco Channel. Each component of the Amendment is consistent with the General Plan and Arroyo Vista Neighborhood Plan, as follows:

Consistency with General Plan Housing and Open Space Element

The proposed Inclusionary Ordinance amendments are consistent with the following General Plan Housing Element policies:

- Policy 1.2: Facilitate the development of a range of housing types through area planning efforts.
- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.

The Arroyo Vista Neighborhood Plan was developed in 2007 and the original entitlement was approved in 2017. The proposed amendments facilitate the developer to provide a range of housing types, including the 2017 approval, by adjusting the

number of stories to meet the housing needs and market of 2024. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The bridge became infeasible due to liability and legal and long-term maintenance issues with Zone 7 and the City and required a zoning amendment. Consistent with the Neighborhood Plan, the Project is providing two neighborhood parks in addition to the two pocket parks proposed in this amendment.

Consistency with Light Intensity Industrial Urban High

Residential General Plan Designation. The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, and walkable neighborhood that includes amenities for residents; ensure new development is compatible with existing development and community character The proposed amendments would facilitate the proposed Project, which will provide housing choices with a variety of architecture in an area with accessible commercial, services, and open space.

Consistency with Arroyo Vista Neighborhood Plan

The proposed Inclusionary Ordinance Amendments are consistent with the following Specific Plan Goals:

- 4.1.3.3 The maximum allowable height for buildings in the Neighborhood is 45 feet. This maximum height is allowed on two and one-half, and three-story buildings only.
- 2.6(2) Usable common open space areas including paseos.

The proposed Amendments would allow for more flexibility in building heights and number of stories, consistent with the Neighborhood Plan that allows for building heights of to 45 feet on 3 story products. The Project is proposing building heights of up to 45 feet on the single-family homes. It allows the developer to meet the market needs of today. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The pocket parks provide additional open space that surpasses the standard requirement of a minimum of two neighborhood parks on either side of the development. The 2017 approval will still be providing the two neighborhood parks in addition to the two pocket parks. The proposed changes align with the Arroyo Vista Neighborhood Plan.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

   Findings: The amendment of 45 feet and 3 stories high is consistent with the surrounding character. The 2017 approval provides multi-family, flats, and townhome product types that are 3 story buildings. Further, the single-family homes provide reduced massing and greater visual relief than the multi-family, flats, and townhome product as they are detached. The number of proposed units in consistent with the

2017 approval which was analyzed traffic, emergency, and public services. In addition, the removal of the pedestrian bridge provides lower impacts on the environment. The Project is proposing pocket parks in place of the pedestrian bridge landings to contribute additional open space. To supplement the loss of the bridge, the Project will be providing bollard lighting and a pedestrian pathway at the south-western corner of the eastern parcel to bolster connections for pedestrians from the eastern parcel to the western parcel along Las Positas Road. The Project would still provide utilities and services to all new residents and would be required to protect the environment. Therefore, the proposed Amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

Findings: The proposed amendments do not affect any other sections of the Development Code. Therefore, both changes will not conflict with any other provision of the Development Code.

BE IT FURTHER RESOLVED, with respect to Specific Plan Amendment (SPPA) 24- 002, the Planning Commission finds based upon the information presented that:

1. A Specific Plan may only be amended if first found consistent with the General Plan in compliance with Government Code Section 65454.

Findings: The Project proposes a Neighborhood Plan Amendment to: 1) Remove the pedestrian bridge requirement from the Arroyo Vista Neighborhood Plan. The pedestrian bridge became infeasible due to liability, legal and long-term maintenance issues with Zone 7 and the City. In place of the pedestrian bridge landings, the Project will be providing two pocket parks; 2) Redline the conceptual plans and figures to show the removal of the pedestrian bridge. Each component of the Amendment is consistent with the General Plan, as follows:

Consistency with Light Intensity Industrial and Urban High Residential (UH-3)

The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, walkable neighborhood that includes accessible commercial, services, and open space for residents; ensure new development is compatible with existing development and community character. The proposed amendments would facilitate the proposed Project. The Project is consistent with the land use designation and implements the General Plan goals for the Arroyo Vista Neighborhood. For example, the Project would create a new vibrant neighborhood, a range of amenities, including two neighborhood parks (consistent with the 2017 approval), paseos, a private community pool, and pocket parks. The Project is also compatible with surrounding development since the building heights are consistent with the building heights of the surrounding products from the 2017 approval, and the buildings are designed with

traditional architectural features common in Livermore, like brick, deep eave overhangs and spacious porches.

Additionally, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks.

Consistency with Open Space Element

More specifically, the proposed removal of the pedestrian bridge amendment is consistent with the following General Plan Land Use Element policies:

- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.
- Recreational access to the open space surrounding the City shall be encouraged to the extent that it is compatible with provisions of the Land Use Element.

In addition, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks. This satisfies OSC-5.1 Policy 2 by providing land that is used for parks. Additionally, the Project proposes two pocket parks in place of the bridge landings and enhanced pedestrian connections to the public walking trail such as bollard lighting and 4 access points to the trail. One access point at the north end of the trail, an access point at the north-western end of the trail, an access point from the west pocket park to the trail, and an access point from Las Positas Road to the trail.

BE IT FURTHER RESOLVED that the Livermore Planning Commission, based upon its own independent review of the Record Evidence and considerations, and based on the above findings which are necessary to protect the public health, safety, and general welfare, hereby recommends the City Council approve Site Plan Design Review Modification (SPDRM) 24-001, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002, together with the Conditions of Approval as modified in Exhibit C to the City Council Project Approval Resolution.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct the Planning Manager to file a Notice of Determination for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 with the Alameda County Clerk if the Project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Fintschenko, seconded by Commissioner Kronzak, the foregoing Resolution was adopted at the Planning Commission meeting of July 16, 2024, by the following vote:

AYES: ANDERSON, DUNBAR, FINTSCHENKO, KRONZAK, LEARY.
NOES: NONE.
ABSENT: NONE.

Jacob Anderson, Chairperson

Stephen Riley

by Stephen Riley, Planning Manager
Secretary to the Planning Commission

Arroyo Vista Neighborhood Plan Amendments

Staff recommends the following amendments to the Neighborhood Plan. Text additions are shown in underline and text deletions are shown in ~~strikeout~~.

Project Description

1. Page i-v, is amended as follows: As shown in the illustrative plans in Chapter 2, the street and open space network serves as the framework for development of this traditional neighborhood. Although the Plan Area includes two sub-neighborhoods, both are tiered off of an open space and circulation system that includes parks which are easily accessible to all neighborhood residents. Similarly, the buffer areas along the Arroyo Seco Channel are easily accessed by both neighborhoods. ~~A pedestrian bridge over the channel is proposed to facilitate access to either side.~~ Primary building entries front onto sidewalks and tree lined streets, paseos, or common open space areas. Buildings all front or side onto public or common landscape areas, and garages are located away from primary roads and walkways.

Chapter 1 – Existing Conditions

2. Page 1-4, Figure 1.2: Neighborhood Analysis is amended to remove the Pedestrian Bridge. Refer to attachment 1 for a copy of the revised figure.
3. Page 1-9, is revised as follows: Currently, Las Positas is a two-lane road along the Site's frontage (from Arroyo Vista Road to Bennett Drive). An existing development agreement between the Arroyo Vista property owner and City requires certain public improvements to be constructed in conjunction with any development on this Site. These improvements are outlined in specific detail in the City's Traffic Impact Fee (TIF) program and include: widening Las Positas Road from 2 to 4 lanes, adding a median, and providing bike lanes on both sides~~. and constructing a new bridge to cross the Arroyo Seco Channel, which traverses the midpoint of the Site from north to south~~.
4. Page 1-15, is amended as follows: The location of the channel and future trail improvements along the Zone 7 service road through the Site provide an opportunity for direct connectivity to the trail from the Site. There is also opportunity for enhanced, natural landscaping and open space areas in the proposed setback area adjacent to the channel. However, the location of the channel is also a constraint in that it bisects or divides the Site into two sub-neighborhoods. For this reason, careful attention should be paid to provide a separated connection to the trail and to both sides of the project along the Arroyo Seco Channel and Las Positas Road. ~~A pedestrian bridge is also recommended to cross the channel and connect the two sub-neighborhoods.~~

Chapter 2 – Neighborhood Land Uses

1. Page 2-5, is amended as follows: As shown in the conceptual plans, the street and open space network serves as the framework for development of this traditional neighborhood. Although the Plan Area includes two neighborhoods on each side of the channel, both are organized around usable, well defined park areas which are easily

accessible to all neighborhood residents. Similarly, the buffer area along the Arroyo Seco Channel is easily accessed by both. ~~The two neighborhoods are to be connected by a pedestrian bridge facilitating access to either side.~~ Primary building entries front onto sidewalks and tree lined streets, paseos, or common open space areas. Buildings all front or side onto public or common landscape areas, and garages are located away from primary road and walkways.

5. Page 2-6, Figure 2.1: Conceptual Land Use Plan A (14.1 du/acre) is amended to remove the Pedestrian Bridge. Refer to attachment 2 for a copy of the revised figure.
6. Page 2-7, Figure 2.2: Conceptual Land Use Plan B (17.3 du/acre) is amended to remove the Pedestrian Bridge. Refer to attachment 3 for a copy of the revised figure.
7. Page 2-9, is amended as follows: The Arroyo Vista Neighborhood Plan envisions a walkable community with a series of pedestrian connections and a hierarchy of interconnected streets and pedestrian pathways. The neighborhood should be a unique community that focuses on livability, quality of life, and that provides a variety of amenities such as a private neighborhood center with pool, playground facilities, parks and open space. Multi-use trails will be constructed parallel to and along both sides of the Arroyo Seco Channel. Trail crossings will be provided at Arroyo Vista and Las Positas Roads. ~~A pedestrian bridge will connect either sides of the Channel providing easy access to both sides of the community.~~
8. Page 2-20, is amended as follows: The street and open space network serves as the basic framework for neighborhood development. Although the Plan Area includes two neighborhoods on each side of the channel, both include one usable, well defined open space area easily accessible to all residents ~~and a pedestrian bridge over the Arroyo Seco linking the two areas~~. The Arroyo Vista Neighborhood should have at least one park, of a minimum .20 acre size on each side of the Arroyo Seco. These neighborhood parks are to be easily accessible to residents and visible from the adjacent streets and surrounding uses.
9. Page 2-21, is amended as follows: A multi-use pathway is also proposed within the required minimum 30-foot building setback from the site property line on either side of the channel. Along with the public multi-use trail proposed for the 20-foot Zone 7 service road, a minimum 50-foot setback will be provided from the top of the creek bank to any building. This trail will provide connectivity from different areas of the community to the Arroyo Seco and ultimately leading to the public citywide multi-use trail. ~~The buffer area along the Arroyo Seco Channel is easily accessed by both neighborhoods with a pedestrian bridge leading to either side of the channel.~~ A trail on the east side of the channel shall also be required.

Chapter 3 – Circulation System

1. Page 3-4, Figure 3.1: Conceptual Circulation is amended to remove the Pedestrian Bridge. Refer to attachment 4 for a copy of the revised figure.
2. Page 3-17, Figure 3.8: Concept Plan A (14.1 du/acre) – Parking Diagram is amended to remove the Pedestrian Bridge. Refer to attachment 5 for a copy of the revised figure.
3. Page 3-18, Figure 3.9: Concept Plan B (17.3 du/acre) – Parking Diagram is amended to remove the Pedestrian Bridge. Refer to attachment 6 for a copy of the revised figure.

Chapter 6 – Implementation

1. Page 6-5 is amended as follows: The developer(s) of the Site will be required to fund improvements to implement trail standards for a public multi-use trail along the existing

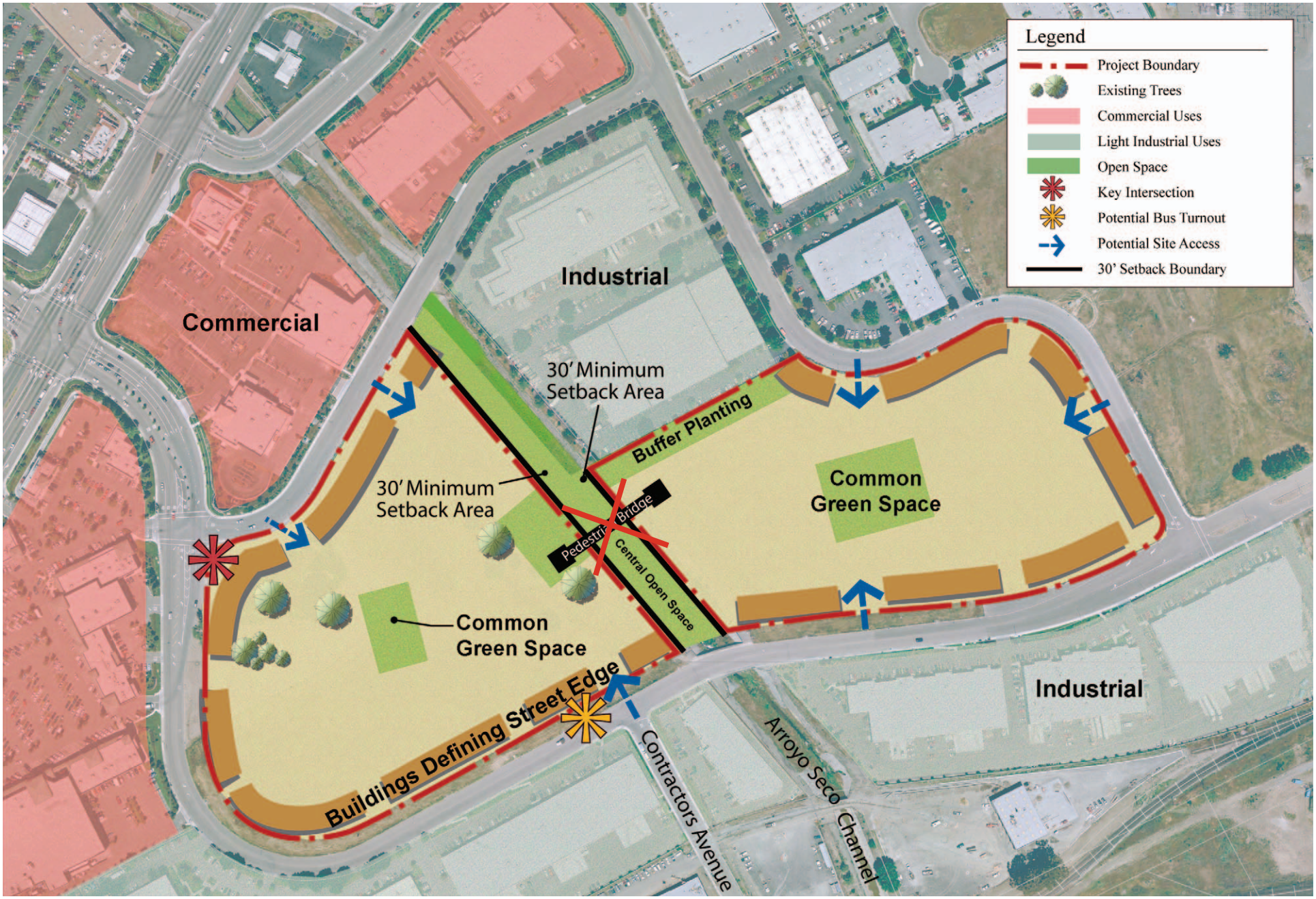
Zone 7 service Road along the west side of the Arroyo Seco Channel adjacent to the Project Site. This proposed trail is outlined within the City's Bikeways and Trails Master Plan. Potential improvements would include upgrading the road with asphalt, striping and decomposed granite. In order to implement a publicly accessible trail for recreation purposes on property owned and maintained by Zone 7, the City will need to enter into a License Agreement with Zone 7 for maintenance and liability.

The developer(s) of the Site will also be required to fund improvements for a neighborhood trail on the east side of the Channel, adjacent to the Project Site~~, in conjunction with a pedestrian bridge crossing across the Channel~~. ~~The pedestrian bridge must clear span the Arroyo. Specific bridge design details including bridge height are subject to Zone 7 standards and must be coordinated with Zone 7.~~

Attachments:

1. Figure 1.2: Neighborhood Analysis
2. Figure 2.1: Conceptual Land Use Plan A (14.1 du/acre)
3. Figure 2.2: Conceptual Land Use Plan B (17.3 du/acre)
4. Figure 3.1: Conceptual Circulation
5. Figure 3.8: Concept Plan A (14.1 du/acre)
6. Figure 3.9: Concept Plan B (17.3 du/acre)

EXHIBIT B



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Scale 1"=300'

Figure 1.2: Neighborhood Analysis

FINAL 07.07

EDAW | AECOM

DRAFT

LIVERMORE CALIFORNIA

EXHIBIT B

Unit Type	Parcel "A"	Parcel "B"	Total	% of Total
Single-Family Lots	52	35	87	21.6%
Garden Court Units	80	71	151	37.6%
Tuck-Under Townhomes	81	83	164	40.8%
Total Units	213	189	**402**	**100%**
Total Acres	15.35	13.25	**28.6**	
Open Space (in ac)	4.62	3.83	8.47	
Gross Residential Development Area (in ac)			**28.6**	
Gross Residential Density (du/ac)			**14.1**	

N 0 150' 300' 450'
Scale 1"=300'

EDAW | AECOM

Figure 2.1: Conceptual Land Use Plan A (14.1 du/acre)

FINAL 07.07

LIVERMORE CALIFORNIA

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EXHIBIT B

Unit Type	Parcel "A"	Parcel "B"	Total	% of Total
Tuck-Under Multi-Family	98	72	170	34.4%
Traditional Townhomes	73	79	152	30.7%
Tuck-Under Townhomes	101	72	173	34.9%
Total Units	272	223	**495**	**100%**
Total Acres	15.35	13.25	**28.6**	
Open Space (in ac)	5.20	4.13	**9.33**	
Gross Residential Development Area (in ac)			**28.6**	
Gross Residential Density (du/ac)			**17.3**	

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Scale 1"=300'

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Figure 2.2: Conceptual Land Use Plan B (17.3 du/acre)

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LIVERMORE CALIFORNIA

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EXHIBIT B

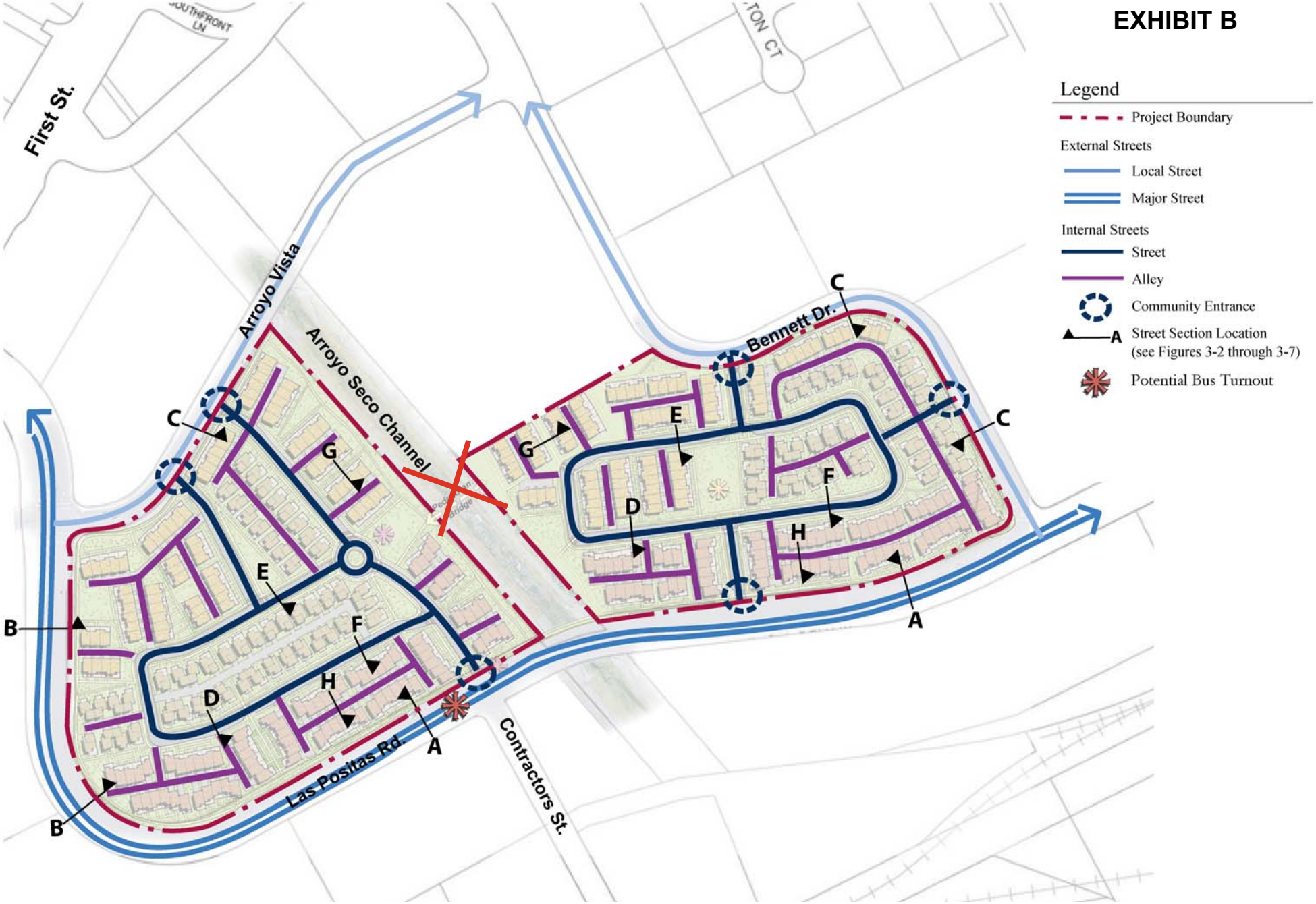

Figure 3.1: Conceptual Circulation

N 0 150' 300' 450'
Scale 1"=300'

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LIVERMORE CALIFORNIA

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EXHIBIT B

N 0 150' 300' 450'
Scale 1"=300'

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Figure 3.8: Concept Plan A (14.1 du/acre) - Parking Diagram

FINAL 07.07

LIVERMORE CALIFORNIA

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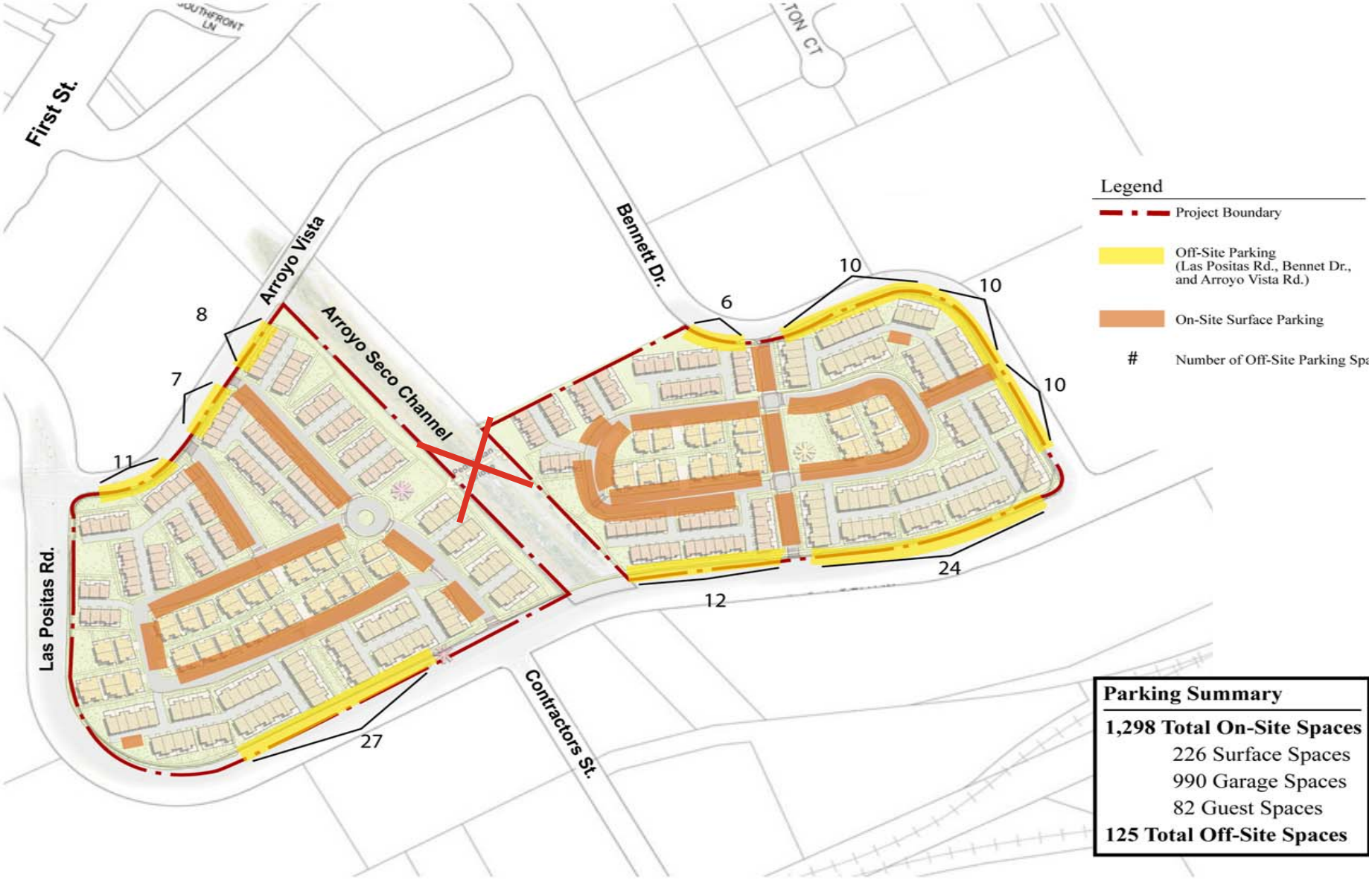
EXHIBIT B



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Scale 1"=300'

Figure 3.9: Concept Plan B (17.3 du/acre) - Parking Diagram

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LIVERMORE CALIFORNIA

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION APPROVING SITE PLAN DESIGN REVIEW MODIFICATION (SPDRM) 24-002 SUBJECT TO CONDITIONS OF APPROVAL FOR THE ARROYO VISTA NEIGHBORHOOD DEVELOPMENT

The City of Livermore ("City") received an application for Site Plan Design Review Modification (SPDRM) 24-002 to modify the 2017 approval located southeast of the Arroyo Vista and Las Positas Road intersection ("Project"). The modified Project would be increased from two stories to three stories and allow a height of up to 45 feet on the 86 for sale single-family residential homes, two approximately 0.2-acre neighborhood parks with an additional approximately 0.5 acre of pocket parks, street improvements, street trees, and utility infrastructure. The Project also includes a Development Agreement Amendment between the City and Developer, Planned Development rezoning, and Specific Plan Amendments. The Development Agreement Amendment removes the bridge requirement that became infeasible due to liability issues. In place of the bridge landings, the Project proposes two pocket parks. Additionally, an in-lieu contribution of $2,000,000 would be provided to the Community Benefit Fund and the Social Opportunity Endowment Fund. The Planned Development rezoning removes the bridge requirement as well and allows for building heights of up to 45 feet and 3 stories. Finally, the Specific Plan amendments remove the bridge requirement.

At a duly noticed public hearing on July 16, 2024, the Planning Commission considered the Project and staff recommendation, heard public testimony, made the necessary findings and adopted Planning Commission Resolution No. 25-24, attached hereto as Exhibit A, containing the Planning Commission's actions and/or recommendations thereon.

On September 9, 2024, the City Council held a duly noticed public hearing to consider the Project, Planning Commission and staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the City Council reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore has considered the Record Evidence and adopted a resolution finding the project to be exempt from the California Environmental Quality Act.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore has considered the findings made in Planning Commission Resolution No. 25-24, attached hereto as Exhibit A, and the City Council hereby adopts the same findings by this reference and incorporates them as their own findings as part of this resolution. Based upon the City Council's own independent review of the Record Evidence and considerations, the City Council hereby approves Site Plan Design Review Modification (SPDRM) 24-002 subject to the Conditions of Approval, attached hereto as Exhibit C, for the Arroyo Vista Neighborhood Development.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the Planning Manager to file a Notice of Determination with the Alameda County Clerk.

The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, in Livermore California.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Planning Commission Resolution No. 25-24
Exhibit B – Proposed Plans
Exhibit C – Conditions of Approval

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE SITE PLAN DESIGN REVIEW MODIFICATION (SPDRM) 24-002, DEVELOPMENT AGREEMENT AMENDMENT (DAA) 24-001, PLANNED DEVELOPMENT REZONING (PD) 24-001, AND SPECIFIC PLAN AMENDMENT (SPPA) 24-002 FOR THE ARROYO VISTA NEIGHBORHOOD DEVELOPMENT

On October 11, 2017, the City received an application from LLC SummerHill to develop the approximately 29-acre vacant parcel located at the southeast corner of Arroyo Vista and Las Positas Road intersection with a residential development project.

On January 25, 2024, the City received an amended application from the Applicant for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The Project would develop vacant land located southeast of Las Positas and Arroyo Vista Road intersection, implementing the Arroyo Vista Neighborhood Plan ("Project"). The Project includes 86 residential units, amenity space, two approximately 1.5-acre neighborhood parks with an additional approximately 0.5 acres of pocket parks street improvements, street trees, and utility infrastructure. The residential units consist of for sale detached single-family homes. The Project also includes a Development Agreement between the City and Developer, and Neighborhood Plan amendments.

On July 16, 2024, the Planning Commission held a duly noticed public hearing to consider the Project, staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the Planning Commission reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore has considered the Record Evidence and recommends the City Council adopt a resolution adopting an Addendum to the 2007 Arroyo Vista Neighborhood Plan, as amended in 2017 (#2007052028), consistent with the requirements of the California Environmental Quality Act ("CEQA").

BE IT FURTHER RESOLVED, with respect to Site Plan Design Review Modification 24-002, the Planning Commission finds based upon the information presented that:

1. The proposed development will be permitted within the subject zone.

Findings: The Project Site is zoned Planned Development (PD) 16-004, which permits

residential uses. The Project still proposes single-family development consistent with the PD with the PD amendments to the single-family homes as described below, a variety of open space areas and amenities, including two neighborhood parks, paseos, two pocket parks, and a public trail. All of the Project's proposed uses are permitted by the Project Site's applicable zoning designations.

2. The proposed development will be designed such that:

   a. The project will not be detrimental to the public health, safety, or general welfare, and not detrimental to adjacent property;
   b. Architectural design and functional plan of the structure(s) and related improvements are of reasonable aesthetic quality and compatible with adjacent developments;
   c. Structure(s) and related improvements are suitable for the proposed use of the property and provide adequate consideration of the existing and contemplated uses of land and orderly development in the general area of the subject site; and
   d. The project's site plan and design is consistent with the City's Design Standards and Guidelines.

Findings:

The proposed Project will not be detrimental to the commercial and light industrial uses of adjacent properties. The Project provides adequate emergency vehicle access throughout the site and necessary ariel access for fire access on units located in alleyways that do not allow for truck turnaround. Water and sewer service will be provided to all units and stormwater will be appropriately managed on site. The site layout is suitable for trash pickup and adequate space will be provided in each residential unit garage buildings for all waste streams.

The Project proposes a variety of architectural styles, emphasizing traditional designs and building materials. The design will feature traditional architectural styles such as Craftsman, Prairie and Ranch.

The proposed traditional architectural styles incorporate design features and materials that will be compatible with existing and future developments in the surrounding areas. Additionally, the Project utilizes varied building materials, neutral colors, and varied building facades to reduce massing, distinguish each building, and provide a high degree of visual interest, variation, and articulation. The proposed color palette and design are compatible with the existing neutral and earth tones used in neighboring industrial and commercial developments.

The Project site is vacant with some preliminary grading approved. The proposed structures and improvements to be developed would be suitable for the Project's proposed mix of uses. The structures and improvements would be compatible with the industrial uses to the north and south of the Project site and commercial uses to west of the Project site across Las Positas Road and the business park uses to the east of the Project site across Bennett Drive. Additionally, the arrangement of structures and

improvements provides for appropriately scaled and orderly development and circulation throughout the Project Site.

The Project proposes a variety of architectural styles that vary by unit throughout the architectural site plan, emphasizing modern designs and building materials that are consistent with the Neighborhood Plan and the City's design standards and guidelines. The single-family homes provide a mix of board and batten, brick, gable trim, and decorative corbels.

The building's fenestration promotes order and variety. Massing is reduced through wall plane changes and belly bands. Additionally, the buildings use brick, stone, and other materials to provide visual interest.

The Project is also conditioned to conform with the Mitigation, Monitoring, and Reporting Program (MMRP) adopted with the certified 2007 Initial Study/Mitigated Negative Declaration, as amended in 2017. The Project is not detrimental to adjacent properties and considers adjacent uses in the general area. All project frontages contain substantial landscaping and trees to appropriately screen the proposed buildings. The Project meets applicable parking standards. The residential use promotes synergy with surrounding uses, locating residents close to job centers, commercial uses, and will not produce any dust, odor, noise, or glare during regular operations. The structures are suitable for the site and the site plan is consistent with the City's Design Standards and Guidelines.

3. The proposed development is designed to include the following criteria, as applicable:

   a. Compliance with Chapter 9.07 of the Development Code (Site Plan and Design Review), Municipal Code Title 15 (Buildings and Construction), and any other applicable City regulations and policies;
   b. Efficient site layout and design;
   c. Compatible and appropriate in scale to neighboring properties and developments.
   d. Efficient and safe public access (both pedestrian and vehicular) and parking;
   e. Appropriate and harmonious arrangement and relationship of proposed structures and signs to one another and to other development in the vicinity, based on good standards of design;
   f. Appropriate relationship to land use and development of adjacent properties, including topographic and other physical characteristics of the land;
   g. Proper site utilization and the establishment of a physical and architectural relationship to existing and proposed structures on the site;
   h. Compatible architectural style with the character of the surrounding area, both to avoid repetition of identical design where not desired, and to ensure compatibility in design where desired;
   i. Harmonious relationship with existing and proposed developments and the avoidance of both excessive variety and monotonous repetition;
   j. Compatible in color, material, and composition of the exterior elevations to neighboring visible structures;
   k. Appropriate exterior lighting which provides for public safety and is not of a nature

that will constitute a hazard or nuisance to adjacent properties;

l. Compatible in scale and aesthetic treatment of proposed structures with public areas;
m. Appropriate open space and use of water efficient landscaping; and
n. Consistent with the General Plan and any applicable Specific Plan.

Findings:

The proposed residential development is compliant with the Project site's zoning and would comply with all building code requirements and any additional applicable City regulations pertaining to the development and operation of the Project.

The design, location, size, and operating characteristics of the Project makes the Project Site suitable for the type, density, and intensity of use being proposed. Non- residential spaces such as the pocket parks, paseos, and walking trail, will provide residents and guests with areas for leisure, exercise, and gathering consistent with the intent of the zoning to provide recreational uses for residents.

The Project is of compatible and appropriate scale to neighboring properties and development. Directly adjacent to the property to the east is a business park. North of the Project Site across Arroyo Vista is an existing commercial development of similar scale. East of the Project Site across the Arroyo Seco Channel is vacant land that will be developed with the remaining portions of the 2017 approval, which also features a variety of residential unit mixes and amenities. Accordingly, the Project would be compatible with existing neighboring developments.

A street network has been approved with the 2017 approval and the street network proposed is consistent with that design. Vehicular access would be provided via two access points. One point of vehicular ingress and egress would be located along Las Positas Road, and one point of vehicular ingress and egress would be located along Arroyo Vista. The project includes one new public street and several new private alleys that would be internal to the development, consistent with the 2017 approval. Five pedestrian pathways are proposed throughout the Project Site to maximize connectivity and accessibility for pedestrians.

The Project Site's proximity to major roadways and highways and the internal roadways within the Project provide sufficient public and emergency vehicle access. The Project would provide 273 parking spaces within private garages, guest parking spaces and public stalls. A bus stop would be located along Las Positas Road, consistent with the 2017 approval. Accordingly, the Project would provide efficient and safe public access.

The homes are strategically arranged and designed to be visually appealing, functional, and to facilitate pedestrian and vehicular traffic throughout the Project site by providing pedestrian entries in between homes and utilizing loop streets for vehicular traffic.

The adjacent property to the east consists of similar, mostly flat, topographic conditions. The proposed land use and development would be compatible with adjacent properties. The residential development would be carefully configured to connect with existing city streets and proposed internal streets, allowing for efficient circulation and access. Additionally, the Project would feature a pedestrian connection to the walking trail along the Arroyo Seco Channel.

The Project site does not contain any existing structures. The Project's configuration is harmonious with neighboring developments, with a consistent density throughout the site and special corner treatments to reduce massing and increase interest.

The proposed residential units would be properly configured with respect to existing Project Site conditions. There is 1 product type with 3 different floor plans. The homes will feature traditional architectural styles. The combination of architectural styles creates visual interest and variety, consistent with the Neighborhood Plan. Additionally, wrapped porches have been used at corner units to reduce massing and provide space activation.

The Project is designed such that it will be well integrated with the adjacent Industrial and Commercial development. Features like a walking trail provides connectivity to both the Industrial and Commercial. The Project features a variety of unit mixes and types and community open space, consistent with the Neighborhood Plan. The architectural styles and color palette is compatible with the natural colors used in neighboring developments, avoiding excessive variety. At the same time, the Project maintains its own unique character that creates neighborhood identity and incorporates residential uses into.

The composition of buildings and exterior elevations are compatible with neighboring industrial and commercial uses. The proposed modern and American architectural styles incorporate design features and materials that distinguish the Project from surrounding developments, while complementing other styles within the Neighborhood Plan and surrounding areas. The proposed color palette is compatible with existing natural tones used in neighboring residential developments. The proposed materials are appropriate, standard materials like those used in the surrounding product types from the Neighborhood Plan.

The Project provides appropriate exterior lighting that promotes public safety and is not of the nature that will constitute a hazard or nuisance to adjacent properties. Streetlights, consistent with City standards, are proposed throughout the Project's internal roads to provide internal lighting for pedestrian and vehicular travel. Pedestrian-scale lighting, in the form of bollard lighting, is concentrated primarily along paseos and pedestrian paths, with additional lighting at the entrance of the pedestrian path connecting from the eastern corner connecting Las Positas Road to the site, providing a safe and walkable connection from the eastern parcel to the western parcel. Roadway lights are proposed along Arroyo Vista and Las Positas Road. All lighting would all comply with the City's lighting standards and will be down shielded.

The Project proposes to provide 130, 616 square feet of open space. The Project would feature water-efficient landscaping throughout, resulting in 179,870 square feet of water efficient landscaping. The Estimated Total Water Use would not surpass the Maximum Allowed Water Allowance. The Project would not utilize recycled water due to a lack of connection to recycled water in the site area.

The Project is consistent with the General Plan in that the Project is located so as to create a consolidated pattern of urbanization, maximizing the use of existing public services and facilities (Objective LU-1.1); including the 2017 approval, it creates neighborhoods that include a range of housing types to meet the needs of all residents (Objective LU-1.2); it create neighborhoods near transit that include a mix of uses and a range of housing types to meet the needs of all residents (Objective LU-3.1). It maintains and enhances Livermore's urban design quality and encourage high quality design in all new development and redevelopment (Objective CC-2.1)It encourages and provides greater support for infill and higher density development in order to reduce Greenhouse Gas (GHG) emissions associated with vehicle travel (Objective CLI-1.2); it supports measures that encourage alternative modes of transportation in order to reduce emissions associated with vehicle travel (Objective CLI-1.3); it enhances existing water efficiency and conservation measures in order to reduce energy and GHGs associated with water use (Objective CLI-1.4); and, it expands the number of trees in Livermore in order to provide a larger carbon sink or area containing natural sources that retain more carbon than what those sources emit (Objective CLI- 1.6).

The Neighborhood Plan Goals and Policies are outlined under Site Plan in the Street Pattern, Access and Internal Circulation, Traffic, Parking, Trails, Pedestrian, and Bicycle Facilities, Open Space and Parks, Lot Layout, and Development Agreement Amendment, Site Plan and Design Review, and Neighborhood Design; these sections describe consistency with the Neighborhood Plan goals and policies.

BE IT FURTHER RESOLVED, with respect to Development Agreement Amendment 24-002, the Planning Commission finds based upon the information presented that:

1. The Development Agreement provides benefit to the City.

Findings: The Development Agreement Amendment will facilitate the development of the proposed Arroyo Vista Neighborhood development project (Project), which provide substantial benefits to the City.

This Project will also serve the best interests, and the public health, safety, and welfare of the residents of the City through: the provision of substantial public revenue in the form of an in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund and increased real property and sales taxes; the provision of land uses that are compatible with the physical nature of the Property and the surrounding area; a new community that provides an additional customer base to the surrounding commercial businesses; new trail and pocket parks that bolster

walkability and connectivity; More information regarding each City benefit is described below:

Alternative Transportation Infrastructure

The Agreement secures a walking trail that connects to private parks, providing greater connectivity and destinations for pedestrians and bicyclists. Walkability is a tenant of the Neighborhood Plan, and these amenities help to support the goals of the plan. Additionally, the build out of the trail aid in Active Transportation Plan goals as the trail along the Arroyo Seco Channel would eventually connect to the Iron Horse Tail, once completed by the City and other public and private partners.

Financial Contributions

The Agreement secures an additional $2,000,000 in public funding for the City's Community Benefit Fund and the Social Opportunity Endowment Fund.

2. The Development Agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable Specific Plan, and this Development Code.

Findings: The Project would not change the General Plan land use designation of Light Intensity Industrial (LII) and Urban High Density Residential (UH-3) and Arroyo Vista Neighborhood Plan; and would comply with the General Plan and Neighborhood Plans purpose, intent, goals, policies, and program. The Project is designed to develop a vibrant, safe, and walkable neighborhood with a range of architectural styles open space and recreational amenities, and citywide goals for and alternative transportation.

The Project would be consistent with the regulations and provisions of the Neighborhood Plan, inclusive of the proposed Specific Plan Amendment to remove the pedestrian bridge. The project proposes to remove the pedestrian bridge and provide two pocket parks in place of the bridge landings to meet the goals of the Neighborhood Plan by providing additional public space that contributes to the goals of recreational activities and walkability. In addition, the Project would contribute $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund to support community and housing needs.

Further, the Project ensures that its proposed land uses are compatible with existing neighboring industrial and commercial uses and transportation infrastructure by minimizing conflicts between adjacent land uses with respect to scale, safety, noise, privacy, transportation, and other potential nuisances and hazards. The Project proposes an emphasis on traditional architecture with traditional design elements and articulated facades, multiple architectural styles while providing cohesive design and site plan layout, and multiple material types, consistent with applicable General Plan and Neighborhood Plan goals and policies.

3. The Development Agreement Amendment complies with the requirements of Government Code Sections 65864 through 65869.5.

Findings: The Development Agreement Amendment between the City and the Developer regulates development of the Project site (Project Site) with the Project. Pursuant to the applicable requirements of the California Government Code governing development agreements, the Development Agreement Amendment specifies the duration of the agreement, the amount and timing of the payments for the in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund, and the number of as well as the location of the pocket parks, among other terms and applicable requirements for California development agreements. Review, approval, and recordation of the Development Agreement Amendment will furthermore be conducted in accordance with the provisions of Government Code sections 65864 through 65869.5.

Government Code Section 65867.5 requires that, if a Development Agreement includes a subdivision, that the Tentative Map complies with Government Code Section 66473.7, which mandates that sufficient water supply be made available for new subdivisions. The Project does not include a Tentative Map. Therefore, the Project complies with Government Code Section 65867.5.

BE IT FURTHER RESOLVED, with respect to Development Code Amendment (DCA), known as Planned Development (PD)24-002 throughout this document, the Planning Commission finds based upon the information presented that:

1. The proposed amendment is consistent with the General Plan and any applicable Specific Plan.

Findings: The Project proposes PD24-002 to: 1) Enable the approval of the Project's proposed increase of allowable building height to 45 feet and 3 stories high; and 2) Replace the existing Neighborhood Plan's requirement to provide a pedestrian bridge over the Arroyo Seco Channel. Each component of the Amendment is consistent with the General Plan and Arroyo Vista Neighborhood Plan, as follows:

Consistency with General Plan Housing and Open Space Element

The proposed Inclusionary Ordinance amendments are consistent with the following General Plan Housing Element policies:

- Policy 1.2: Facilitate the development of a range of housing types through area planning efforts.
- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.

The Arroyo Vista Neighborhood Plan was developed in 2007 and the original entitlement was approved in 2017. The proposed amendments facilitate the developer to provide a range of housing types, including the 2017 approval, by adjusting the

number of stories to meet the housing needs and market of 2024. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The bridge became infeasible due to liability and legal and long-term maintenance issues with Zone 7 and the City and required a zoning amendment. Consistent with the Neighborhood Plan, the Project is providing two neighborhood parks in addition to the two pocket parks proposed in this amendment.

Consistency with Light Intensity Industrial Urban High

Residential General Plan Designation. The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, and walkable neighborhood that includes amenities for residents; ensure new development is compatible with existing development and community character The proposed amendments would facilitate the proposed Project, which will provide housing choices with a variety of architecture in an area with accessible commercial, services, and open space.

Consistency with Arroyo Vista Neighborhood Plan

The proposed Inclusionary Ordinance Amendments are consistent with the following Specific Plan Goals:

- 4.1.3.3 The maximum allowable height for buildings in the Neighborhood is 45 feet. This maximum height is allowed on two and one-half, and three-story buildings only.
- 2.6(2) Usable common open space areas including paseos.

The proposed Amendments would allow for more flexibility in building heights and number of stories, consistent with the Neighborhood Plan that allows for building heights of to 45 feet on 3 story products. The Project is proposing building heights of up to 45 feet on the single-family homes. It allows the developer to meet the market needs of today. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The pocket parks provide additional open space that surpasses the standard requirement of a minimum of two neighborhood parks on either side of the development. The 2017 approval will still be providing the two neighborhood parks in addition to the two pocket parks. The proposed changes align with the Arroyo Vista Neighborhood Plan.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

   Findings: The amendment of 45 feet and 3 stories high is consistent with the surrounding character. The 2017 approval provides multi-family, flats, and townhome product types that are 3 story buildings. Further, the single-family homes provide reduced massing and greater visual relief than the multi-family, flats, and townhome product as they are detached. The number of proposed units in consistent with the

2017 approval which was analyzed traffic, emergency, and public services. In addition, the removal of the pedestrian bridge provides lower impacts on the environment. The Project is proposing pocket parks in place of the pedestrian bridge landings to contribute additional open space. To supplement the loss of the bridge, the Project will be providing bollard lighting and a pedestrian pathway at the south-western corner of the eastern parcel to bolster connections for pedestrians from the eastern parcel to the western parcel along Las Positas Road. The Project would still provide utilities and services to all new residents and would be required to protect the environment. Therefore, the proposed Amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

Findings: The proposed amendments do not affect any other sections of the Development Code. Therefore, both changes will not conflict with any other provision of the Development Code.

BE IT FURTHER RESOLVED, with respect to Specific Plan Amendment (SPPA) 24- 002, the Planning Commission finds based upon the information presented that:

1. A Specific Plan may only be amended if first found consistent with the General Plan in compliance with Government Code Section 65454.

Findings: The Project proposes a Neighborhood Plan Amendment to: 1) Remove the pedestrian bridge requirement from the Arroyo Vista Neighborhood Plan. The pedestrian bridge became infeasible due to liability, legal and long-term maintenance issues with Zone 7 and the City. In place of the pedestrian bridge landings, the Project will be providing two pocket parks; 2) Redline the conceptual plans and figures to show the removal of the pedestrian bridge. Each component of the Amendment is consistent with the General Plan, as follows:

Consistency with Light Intensity Industrial and Urban High Residential (UH-3)

The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, walkable neighborhood that includes accessible commercial, services, and open space for residents; ensure new development is compatible with existing development and community character. The proposed amendments would facilitate the proposed Project. The Project is consistent with the land use designation and implements the General Plan goals for the Arroyo Vista Neighborhood. For example, the Project would create a new vibrant neighborhood, a range of amenities, including two neighborhood parks (consistent with the 2017 approval), paseos, a private community pool, and pocket parks. The Project is also compatible with surrounding development since the building heights are consistent with the building heights of the surrounding products from the 2017 approval, and the buildings are designed with

traditional architectural features common in Livermore, like brick, deep eave overhangs and spacious porches.

Additionally, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks.

Consistency with Open Space Element

More specifically, the proposed removal of the pedestrian bridge amendment is consistent with the following General Plan Land Use Element policies:

- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.
- Recreational access to the open space surrounding the City shall be encouraged to the extent that it is compatible with provisions of the Land Use Element.

In addition, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks. This satisfies OSC-5.1 Policy 2 by providing land that is used for parks. Additionally, the Project proposes two pocket parks in place of the bridge landings and enhanced pedestrian connections to the public walking trail such as bollard lighting and 4 access points to the trail. One access point at the north end of the trail, an access point at the north-western end of the trail, an access point from the west pocket park to the trail, and an access point from Las Positas Road to the trail.

BE IT FURTHER RESOLVED that the Livermore Planning Commission, based upon its own independent review of the Record Evidence and considerations, and based on the above findings which are necessary to protect the public health, safety, and general welfare, hereby recommends the City Council approve Site Plan Design Review Modification (SPDRM) 24-001, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002, together with the Conditions of Approval as modified in Exhibit C to the City Council Project Approval Resolution.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct the Planning Manager to file a Notice of Determination for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 with the Alameda County Clerk if the Project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Fintschenko, seconded by Commissioner Kronzak, the foregoing Resolution was adopted at the Planning Commission meeting of July 16, 2024, by the following vote:

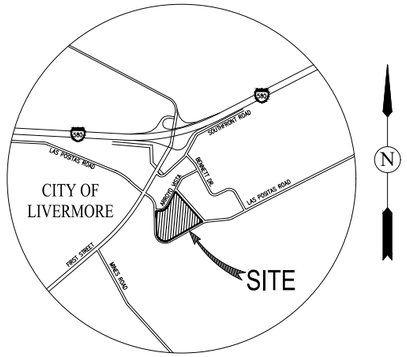
AYES: ANDERSON, DUNBAR, FINTSCHENKO, KRONZAK, LEARY.
NOES: NONE.
ABSENT: NONE.

Jacob Anderson, Chairperson

Stephen Riley

by Stephen Riley, Planning Manager
Secretary to the Planning Commission

EXHIBIT B



VICINITY MAP
NOT TO SCALE

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MIKE KEANEY

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RYAN HANSEN, P.E.

3. ARCHITECT: SDG ARCHITECTS, INC.
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SHARI VAN DORN

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25	A21	PLAN 2 CRAFTSMAN 'C' FRONT & REAR ELEVATIONS
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31	A26	PLAN 3 ROOF PLANS
32	A27	PLAN 3 RANCH 'A' FRONT & RIGHT ELEVATIONS
33	A28	PLAN 3 RANCH 'A' REAR & LEFT ELEVATIONS
34	A29	PLAN 3 RANCH 'A' ENHANCED RIGHT & LEFT ELEVATIONS
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36	A31	PLAN 3 PRAIRIE 'B' REAR & LEFT ELEVATIONS
37	A32	PLAN 3 CRAFTSMAN 'C' FRONT & RIGHT ELEVATIONS
38	A33	PLAN 3 CRAFTSMAN 'C' REAR & LEFT ELEVATIONS
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48	PD-4	LOTTING PLAN (WEST)
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54	L2.0	KEY MAP
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56	L2.2	PELL EAST POCKET PARK ELEVATION
57	L2.3	PELL WEST POCKET PARK ELEVATION
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60	L3.2	TREE IMAGERY
61	L3.3	PLANT IMAGERY

373.015 Pell Property Single Family Detached - Tract # 8714
Livermore
June 11, 2024

PELL PROPERTY SINGLE FAMILY DETACHED

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VAN DORN ABED
LANDSCAPE ARCHITECTS, INC.
81 14TH ST. SAN FRANCISCO, CA
ZIP 94103 PH (415) 864-1921 FAX(415) 864-4796

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CIVIL ENGINEERS
SURVEYORS
PLANNERS
SAN RAMON · ROSEVILLE

0 50 100 150

PELL PROPERTY SINGLE FAMILY DETACHED

LIVERMORE

JUNE 3, 2024

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SINGLE FAMILY DETACHED PLAN MIX SUMMARY

PLAN TYPE	DESCRIPTION	GARAGE S.F.	GARAGE TYPE	QUANTITY	%	UNIT NET S.F.	UNIT GROSS S.F.	TOTAL UNIT NET S.F.	TOTAL UNIT GROSS S.F.
PLAN 1	3 BED + 3 BATH + PWDR + ADU BED + ADU BATH	489	2-CAR (2 STD.)	15	17.44	2612	3101	39180	46515
PLAN 1 TURNED GARAGE	3 BED + 3 BATH + PWDR + ADU BED + ADU BATH	489	2-CAR (2 STD.)	4	4.65	2612	3101	10448	12404
PLAN 2	4 BED + 3 BATH + PWDR	497	2-CAR (2 STD.)	29	33.72	2340	2837	67860	82273
PLAN 2 WRAPPED PORCH	4 BED + 3 BATH + PWDR	497	2-CAR (2 STD.)	8	9.30	2340	2837	18720	22696
PLAN 3	4 BED + 3 BATH + PWDR	505	2-CAR (2 STD.)	30	34.88	2453	2958	73590	88740
TOTAL:				86	100.00			209798	252628

SITE DENSITY (NET): 15.1 DU / AC

COLOR SCHEMES

- CRAFTSMAN ELEVATION 'C' - SCHEME 1
- CRAFTSMAN ELEVATION 'C' - SCHEME 2
- CRAFTSMAN ELEVATION 'C' - SCHEME 3
- RANCH ELEVATION 'A' - SCHEME 4
- RANCH ELEVATION 'A' - SCHEME 5
- RANCH ELEVATION 'A' - SCHEME 6
- PRAIRIE ELEVATION 'B' - SCHEME 10
- PRAIRIE ELEVATION 'B' - SCHEME 11
- PRAIRIE ELEVATION 'B' - SCHEME 12

NORTH

0 10 20 30 40 50' 100'

SITE PLAN
A01

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MATCH LINE

MATCH LINE

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CONCEPTUAL STREETSCAPE
A02

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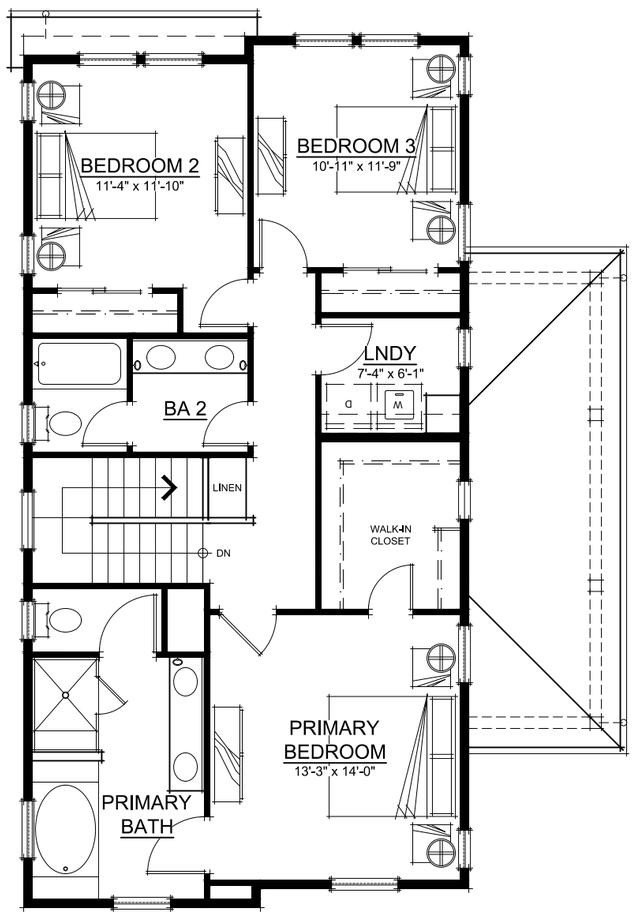
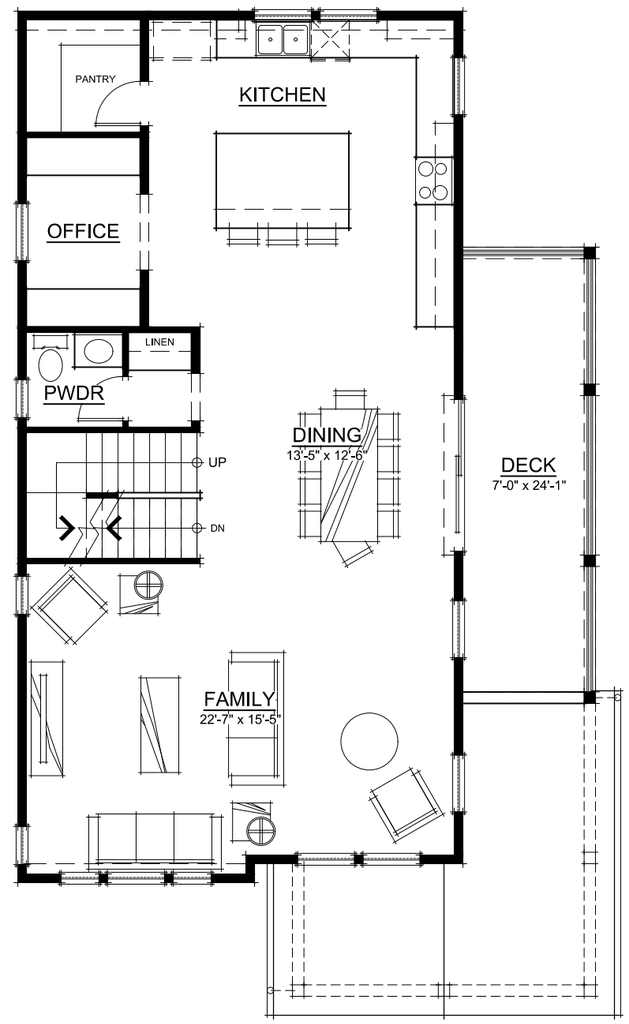
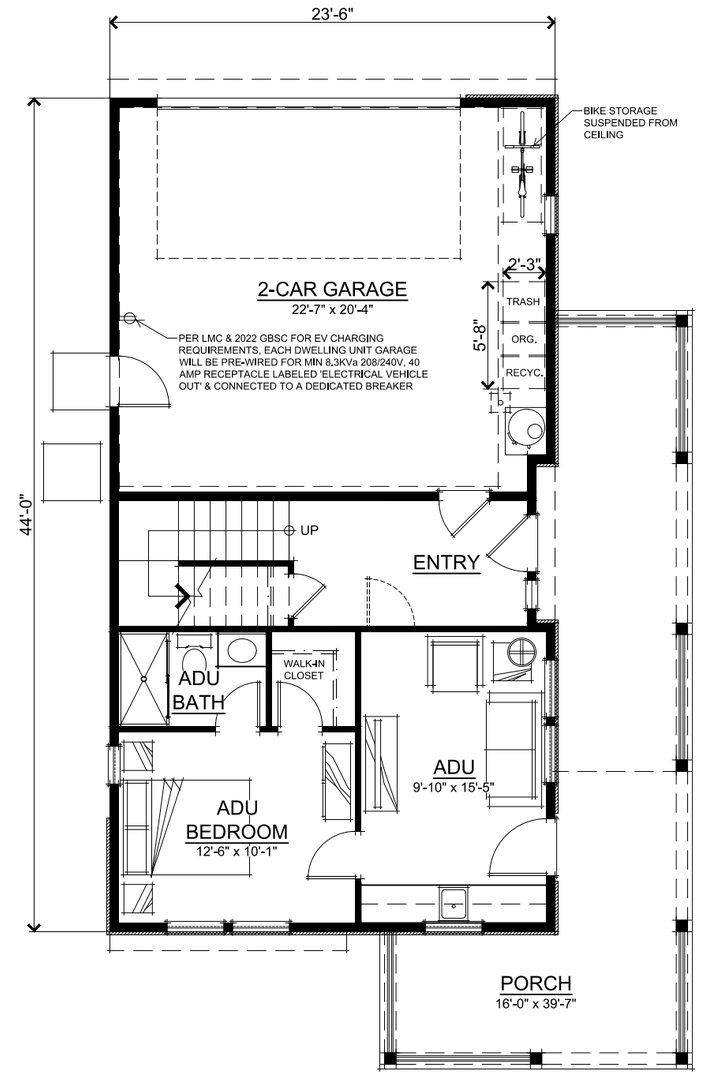


THIRD FLOOR PLAN



SECOND FLOOR PLAN



FIRST FLOOR PLAN

SQUARE FOOTAGES	
FIRST FLOOR	163 SQ. FT.
SECOND FLOOR	1070 SQ. FT.
THIRD FLOOR	996 SQ. FT.
TOTAL LIVING	2229 SQ. FT.
ADU	376 SQ. FT.
2-CAR GARAGE	487 SQ. FT.
PORCH 'A'	366 SQ. FT.
DECK	169 SQ. FT.

0 1' 2' 3' 4' 8'

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PLAN 1 FLOOR PLANS
A03

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SECTION

0 1' 2' 3' 4' 8'

PLAN 1 SECTION
A03.1

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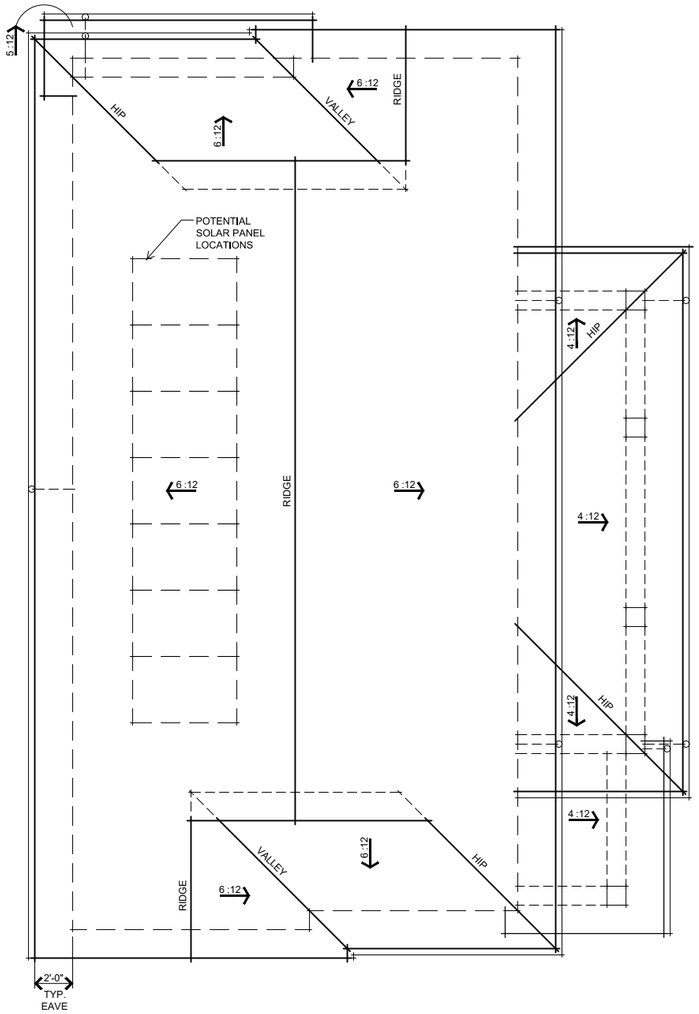
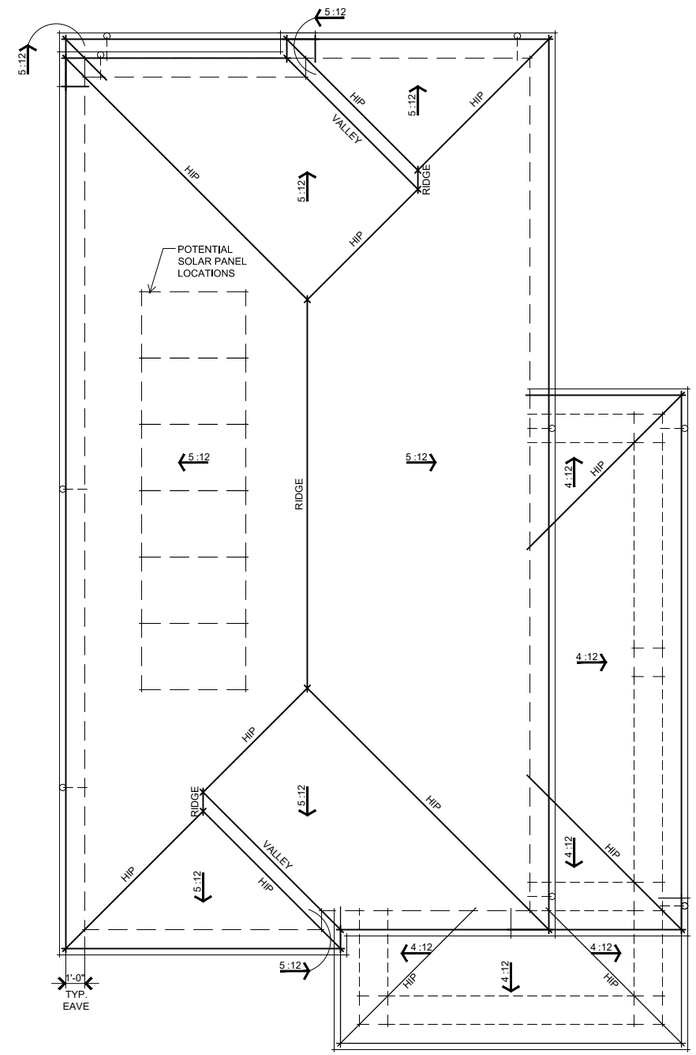
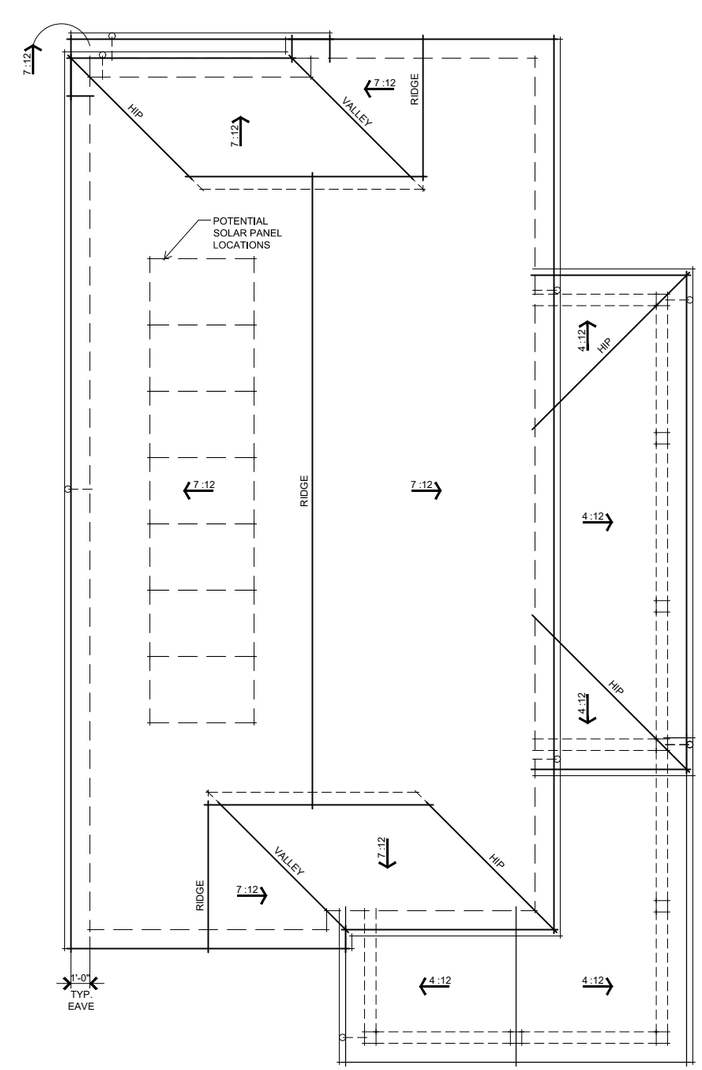


CRAFTSMAN 'C'



PRAIRIE 'B'



RANCH 'A'

0 1' 2' 3' 4' 8'

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PLAN 1 ROOF PLANS
A04

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EXTERIOR MATERIALS

RANCH ELEVATION

COMP. SHINGLE ROOFING
BOARD AND BATTEN SIDING
HORIZONTAL LAP SIDING
BRICK VENEER
WOOD POSTS
WOOD RAILING
WOOD-GRAIN FOAM POTSHELFS
WOOD-GRAIN FOAM SHUTTERS
2X WOOD WINDOW TRIM
DECORATIVE GARAGE DOOR
DECORATIVE CORBELS

RANCH 'A' RIGHT ELEVATION
(CORNER ELEVATION)

RANCH 'A' FRONT ELEVATION
(CORNER ELEVATION)

0 1' 2' 3' 4' 8'

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PLAN 1 RANCH 'A' FRONT & RIGHT ELEVATIONS
A05

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RANCH 'A' LEFT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

RANCH 'A' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 1 RANCH 'A' REAR & LEFT ELEVATIONS
A06

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EXTERIOR MATERIALS

PRAIRIE ELEVATION

COMP. SHINGLE ROOFING
HORIZONTAL LAP SIDING
STUCCO
BRICK VENEER
STUCCO o/ FOAM TRIM
2X WOOD TRIM
DECORATIVE GARAGE DOOR

PRAIRIE 'B' RIGHT ELEVATION
(CORNER ELEVATION)

PRAIRIE 'B' FRONT ELEVATION
(CORNER ELEVATION)

0 1' 2' 3' 4' 8'

PLAN 1 PRAIRIE 'B' FRONT & RIGHT ELEVATIONS
A07

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PRAIRIE 'B' LEFT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

PRAIRIE 'B' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 1 PRAIRIE 'B' REAR & LEFT ELEVATIONS
A08

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EXTERIOR MATERIALS

CRAFTSMAN ELEVATION

COMP. SHINGLE ROOFING
HORIZONTAL LAP SIDING
SHINGLE SIDING
STONE VENEER
BUILT-UP COLUMN & CORBELS
WOOD-GRAIN FOAM POTSHELF
WOOD-GRAIN FOAM OUTLOOKER
2X WOOD TRIM
DECORATIVE GARAGE DOOR

CRAFTSMAN 'C' RIGHT ELEVATION
(CORNER ELEVATION)

CRAFTSMAN 'C' FRONT ELEVATION
(CORNER ELEVATION)

0 1' 2' 3' 4' 8'

PLAN 1 CRAFTSMAN 'C' FRONT & RIGHT ELEVATIONS
A09

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CRAFTSMAN 'C' LEFT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

CRAFTSMAN 'C' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 1 CRAFTSMAN 'C' REAR & LEFT ELEVATIONS

A10

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TURNED GARAGE
RANCH 'A' LEFT ELEVATION

(ELEVATION VISIBLE
FROM PUBLIC REALM)

TURNED GARAGE
RANCH 'A' REAR ELEVATION

TURNED GARAGE
FIRST FLOOR PLAN

373.015 Pell Property Single Family Detached
Livermore
June 3, 2024

0 1' 2' 3' 4' 8'

PLAN 1 RANCH 'A' TURNED GARAGE PLAN & ELEVATIONS
A11

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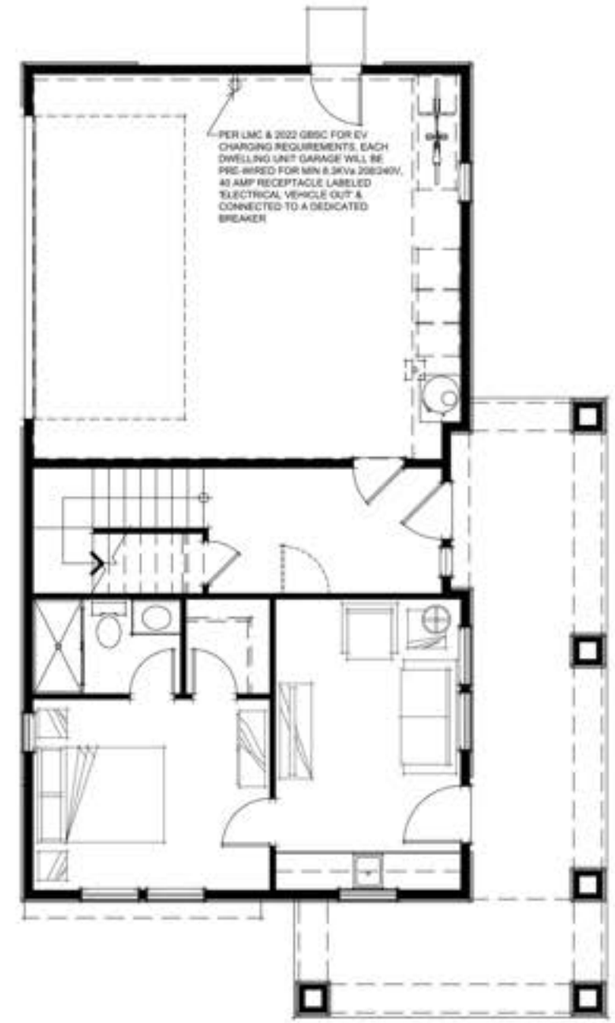
TURNED GARAGE
PRAIRIE 'B' LEFT ELEVATION

(ELEVATION VISIBLE
FROM PUBLIC REALM)

TURNED GARAGE
PRAIRIE 'B' REAR ELEVATION



TURNED GARAGE
FIRST FLOOR PLAN

0 1' 2' 3' 4' 8'

PLAN 1 PRAIRIE 'B' TURNED GARAGE PLAN & ELEVATIONS
A12

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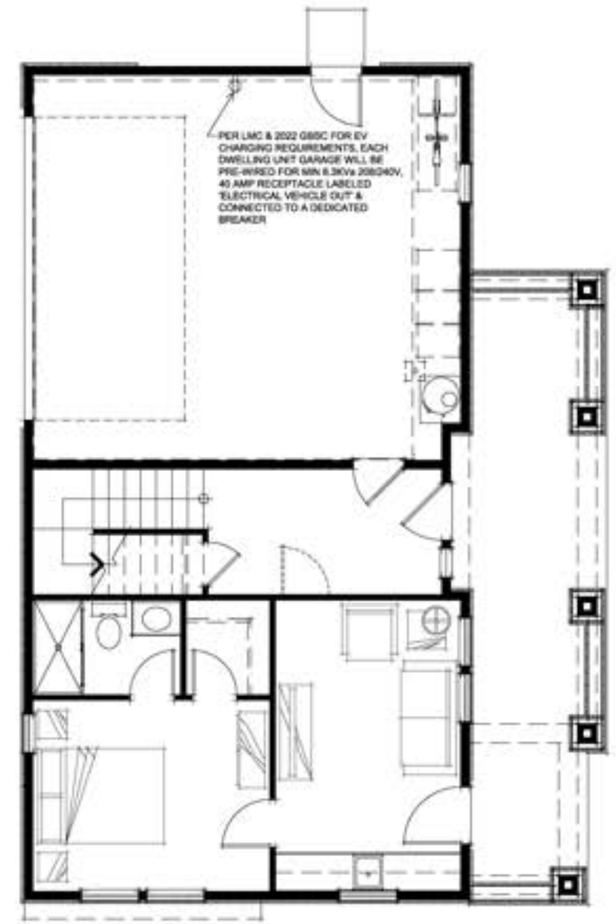
TURNED GARAGE
CRAFTSMAN 'C' LEFT ELEVATION

(ELEVATION VISIBLE
FROM PUBLIC REALM)

TURNED GARAGE
CRAFTSMAN 'C' REAR ELEVATION



TURNED GARAGE
FIRST FLOOR PLAN

0 1' 2' 3' 4' 8'

PLAN 1 CRAFTSMAN 'C' TURNED GARAGE PLAN & ELEVATIONS
A13

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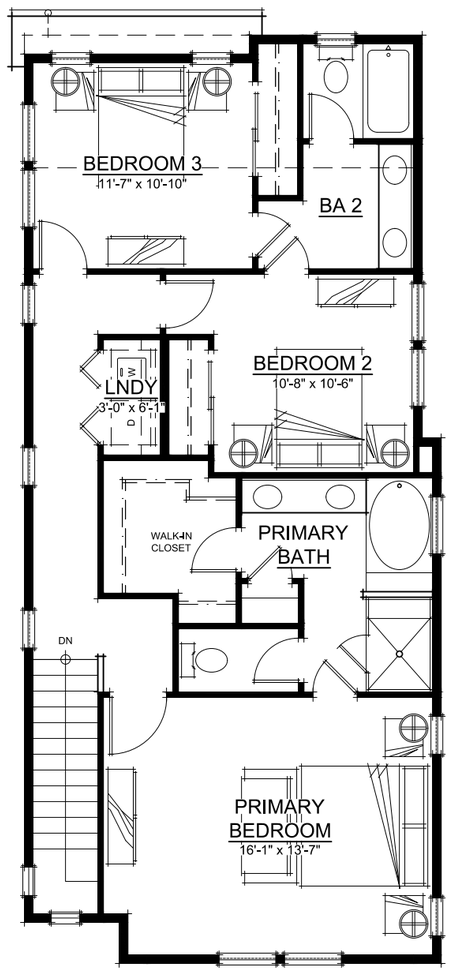
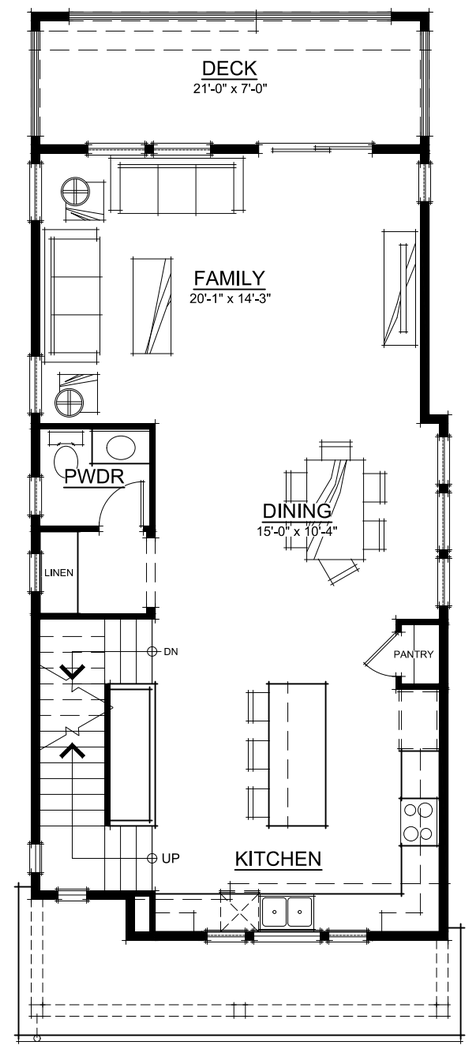
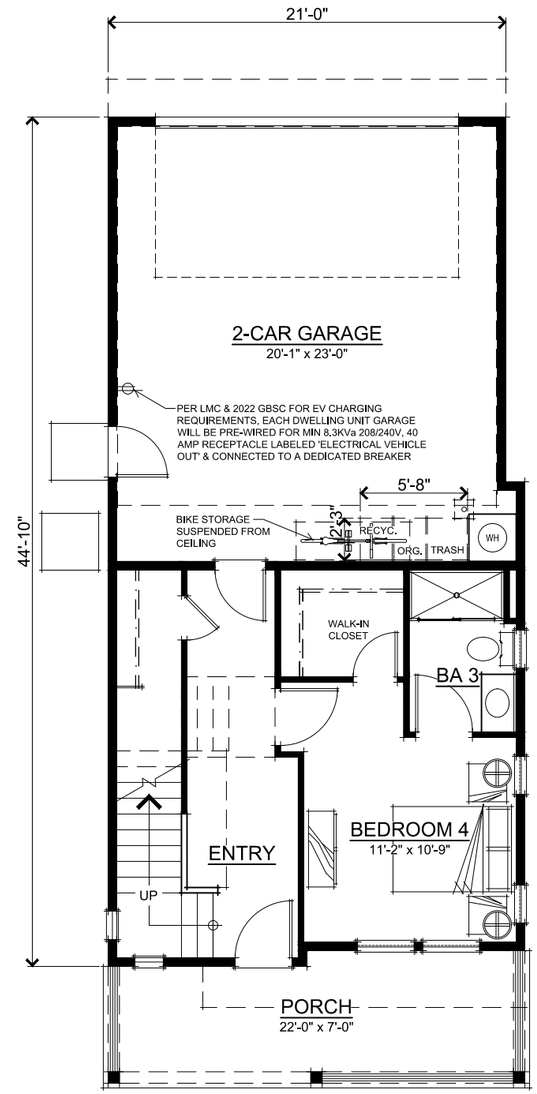


THIRD FLOOR PLAN



SECOND FLOOR PLAN



FIRST FLOOR PLAN

SQUARE FOOTAGES	
FIRST FLOOR	461 SQ. FT.
SECOND FLOOR	899 SQ. FT.
THIRD FLOOR	980 SQ. FT.
TOTAL LIVING	2340 SQ. FT.
2-CAR GARAGE	497 SQ. FT.
PORCH 'A'	154 SQ. FT.
DECK	147 SQ. FT.

0 1' 2' 3' 4' 8'

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June 3, 2024

PLAN 2 FLOOR PLANS
A14

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SECTION

0 1' 2' 3' 4' 8'

PLAN 2 SECTION
A14.1

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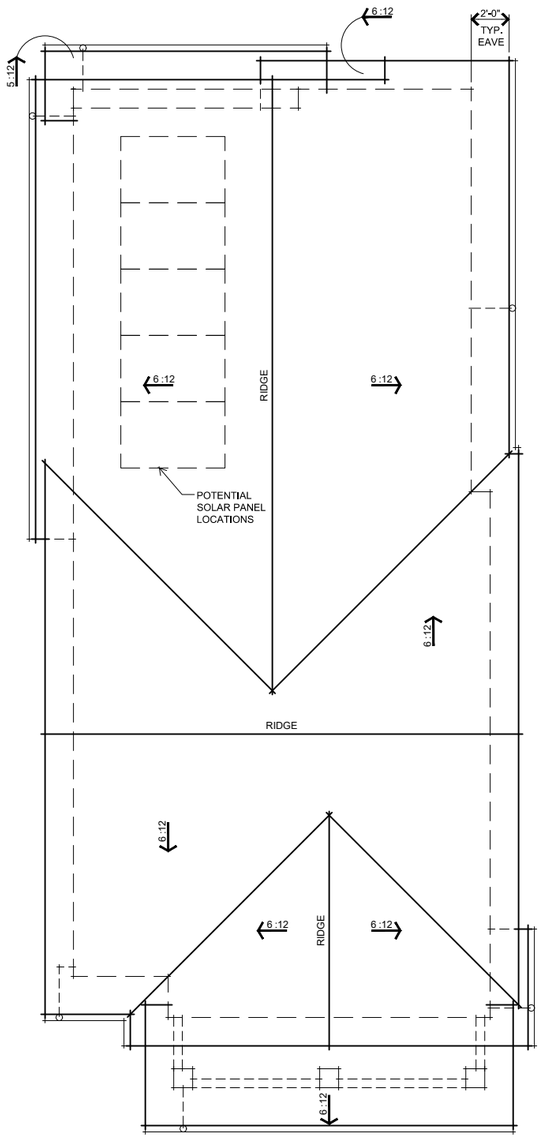
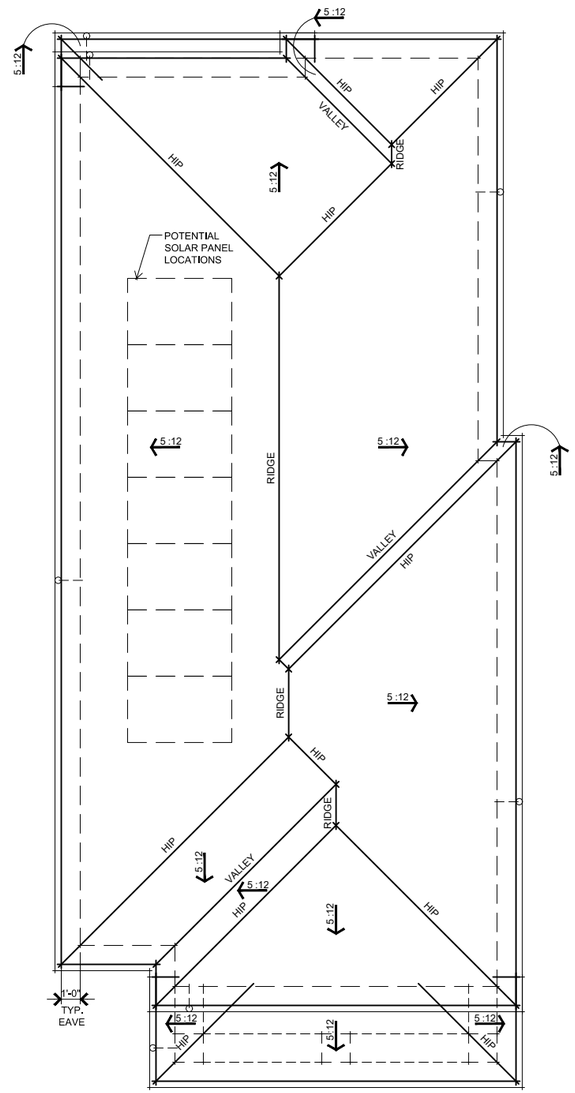
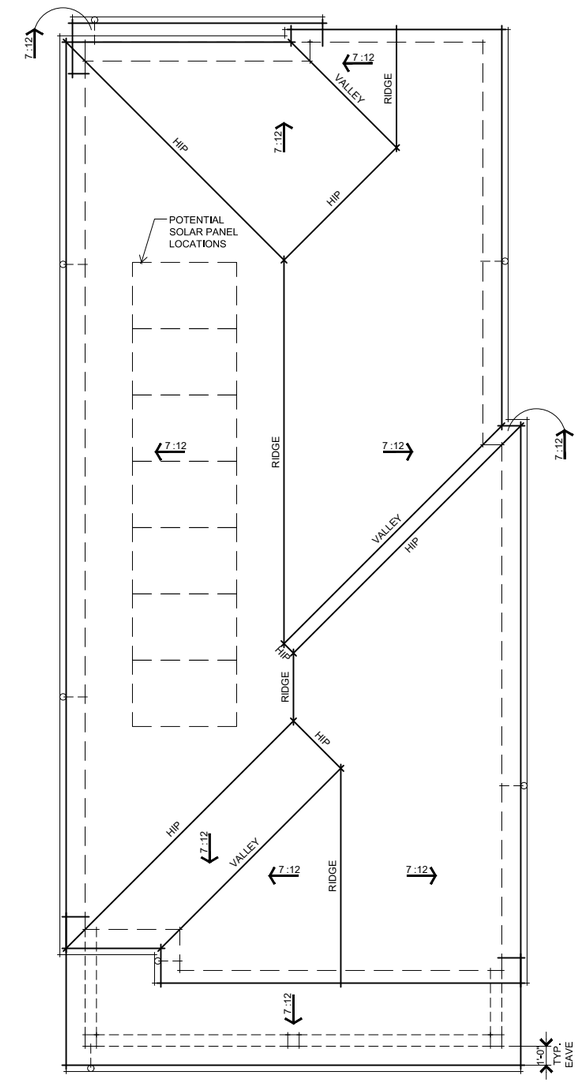


CRAFTSMAN 'C'



PRAIRIE 'B'



RANCH 'A'

0 1' 2' 3' 4' 8'

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PLAN 2 ROOF PLANS
A15

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EXTERIOR MATERIALS

RANCH ELEVATION

COMP. SHINGLE ROOFING
BOARD AND BATTEN SIDING
HORIZONTAL LAP SIDING
WOOD POSTS
WOOD RAILING
WOOD-GRAIN FOAM POTSHELFS
WOOD-GRAIN FOAM SHUTTERS
2X WOOD WINDOW TRIM
DECORATIVE GARAGE DOOR
DECORATIVE CORBELS

RANCH 'A' RIGHT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

RANCH 'A' FRONT ELEVATION

0 1' 2' 3' 4' 8'

PLAN 2 RANCH 'A' FRONT & RIGHT ELEVATIONS
A16

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RANCH 'A' LEFT ELEVATION

(ELEVATION VISIBLE
FROM PUBLIC REALM)

RANCH 'A' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 2 RANCH 'A' REAR & LEFT ELEVATIONS
A17

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RANCH 'A' ENHANCED LEFT ELEVATION

(ELEVATION VISIBLE FROM PUBLIC REALM)

0 1' 2' 3' 4' 8'

PLAN 2 RANCH 'A' ENHANCED LEFT ELEVATION

A18

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EXTERIOR MATERIALS

PRAIRIE ELEVATION

COMP. SHINGLE ROOFING
HORIZONTAL LAP SIDING
STUCCO
BRICK VENEER
STUCCO o/ FOAM TRIM
2X WOOD TRIM
DECORATIVE GARAGE DOOR

PRAIRIE 'B' RIGHT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

PRAIRIE 'B' FRONT ELEVATION

0 1' 2' 3' 4' 8'

PLAN 2 PRAIRIE 'B' FRONT & RIGHT ELEVATIONS
A19

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PRAIRIE 'B' LEFT ELEVATION

(ELEVATION VISIBLE
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PRAIRIE 'B' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 2 PRAIRIE 'B' REAR & LEFT ELEVATIONS
A20

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EXTERIOR MATERIALS

CRAFTSMAN ELEVATION

COMP. SHINGLE ROOFING
HORIZONTAL LAP SIDING
SHINGLE SIDING
STONE VENEER
BUILT-UP COLUMN & CORBELS
WOOD RAILING
WOOD-GRAIN FOAM POTSHELF
WOOD-GRAIN FOAM OUTLOOKER
2X WOOD TRIM
DECORATIVE GARAGE DOOR

CRAFTSMAN 'C' RIGHT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

CRAFTSMAN 'C' FRONT ELEVATION

0 1' 2' 3' 4' 8'

PLAN 2 CRAFTSMAN 'C' FRONT & RIGHT ELEVATIONS
A21

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Livermore
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CRAFTSMAN 'C' LEFT ELEVATION

(ELEVATION VISIBLE
FROM PUBLIC REALM)

CRAFTSMAN 'C' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 2 CRAFTSMAN 'C' REAR & LEFT ELEVATIONS
A22

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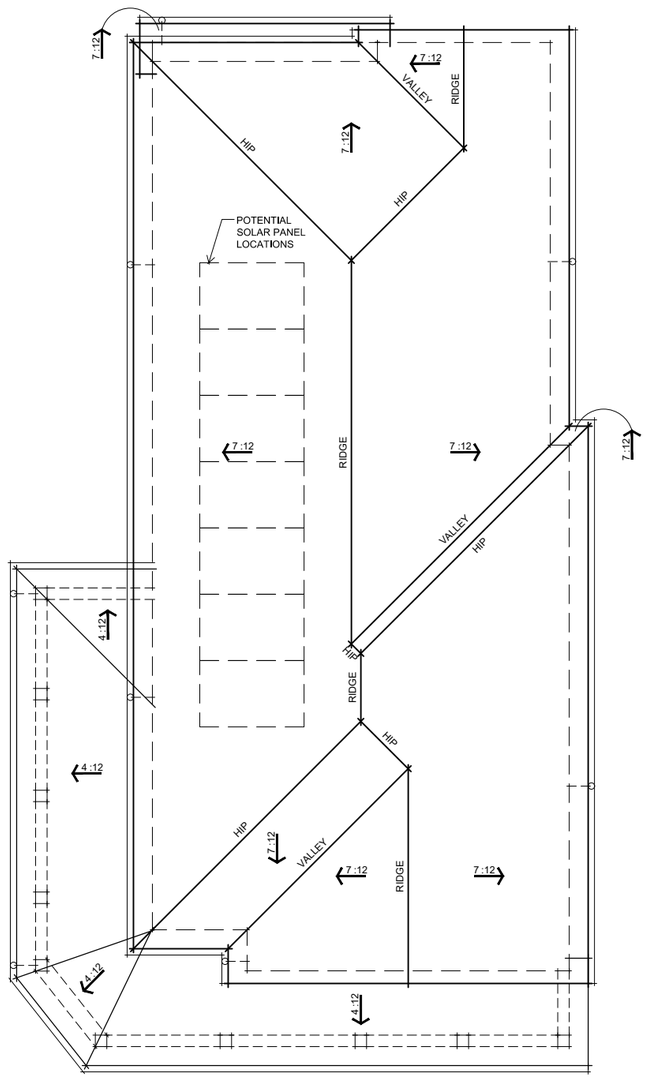
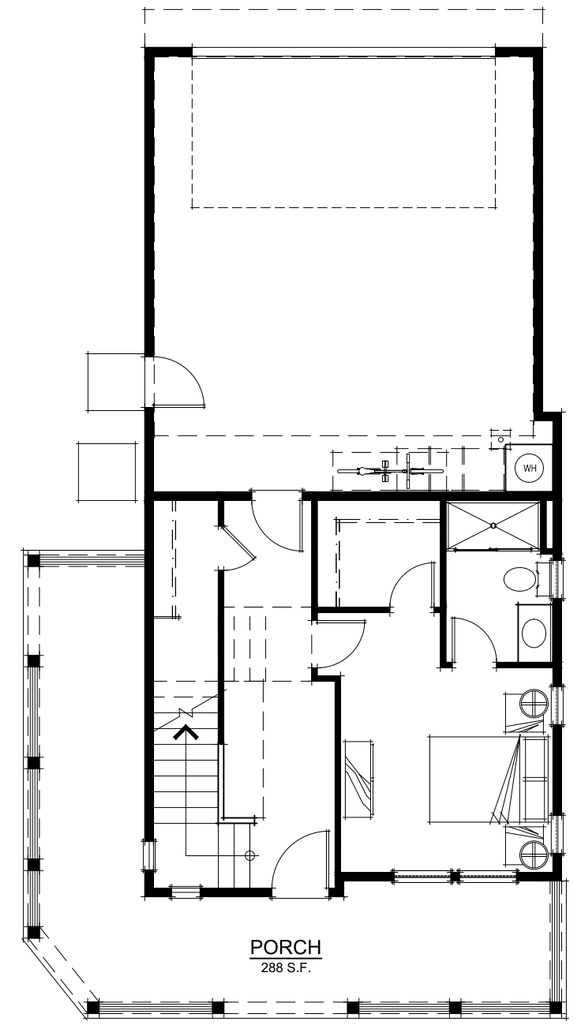


WRAPPED PORCH
ROOF PLAN



WRAPPED PORCH
FIRST FLOOR PLAN

0 1' 2' 3' 4' 8'

PLAN 2 RANCH 'A' WRAPPED PORCH FLOOR & ROOF PLANS
A23

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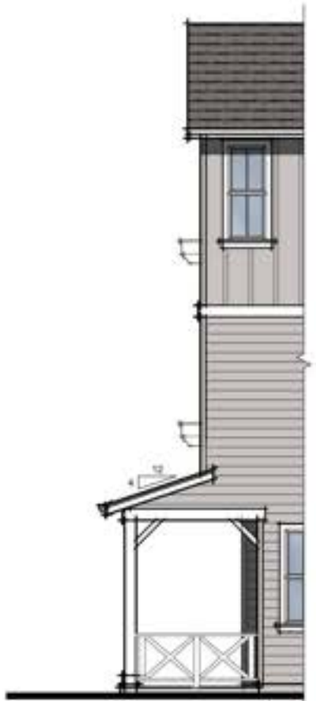

WRAPPED PORCH PARTIAL
RANCH 'A' RIGHT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

WRAPPED PORCH PARTIAL
RANCH 'A' REAR ELEVATION

WRAPPED PORCH PARTIAL
RANCH 'A' LEFT ELEVATION

(CORNER ELEVATION)

WRAPPED PORCH
RANCH 'A' FRONT ELEVATION

(CORNER ELEVATION)

0 1' 2' 3' 4' 8'

PLAN 2 RANCH 'A' WRAPPED PORCH PARTIAL ELEVATIONS
A24

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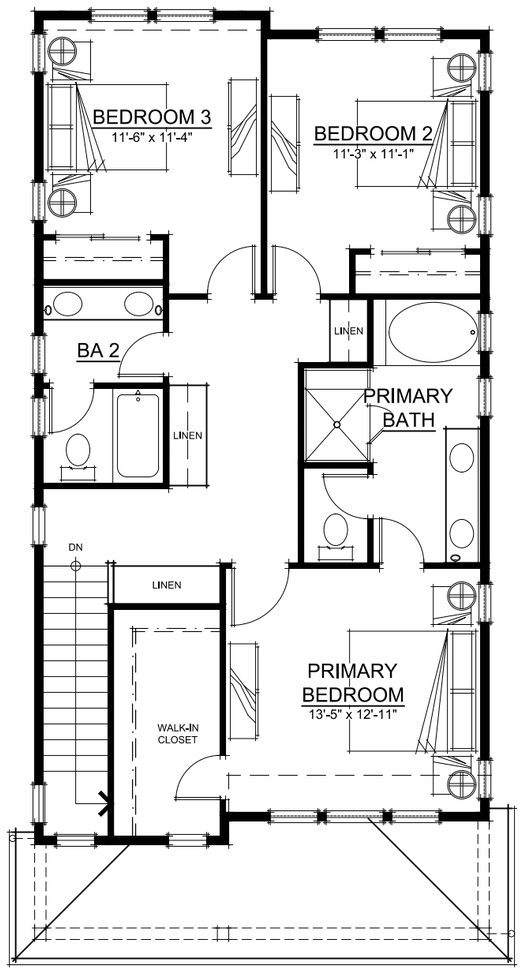
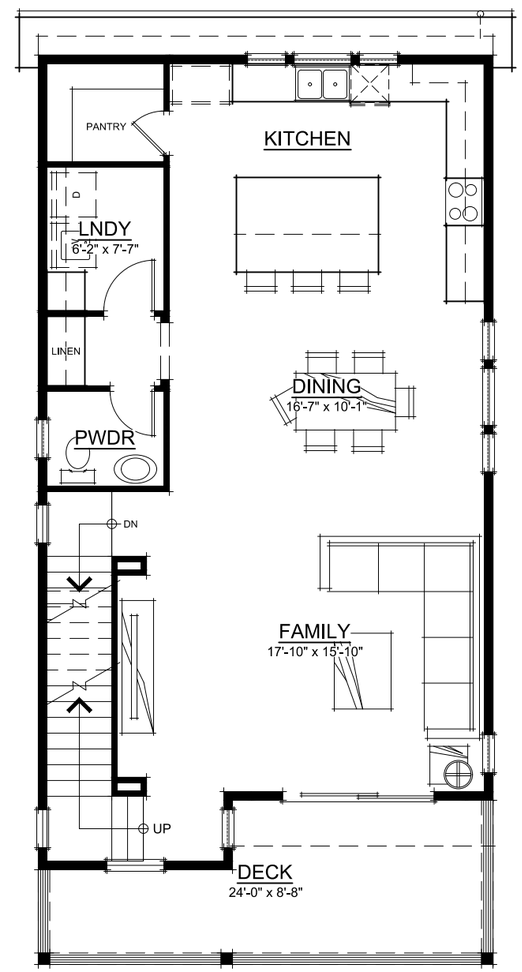
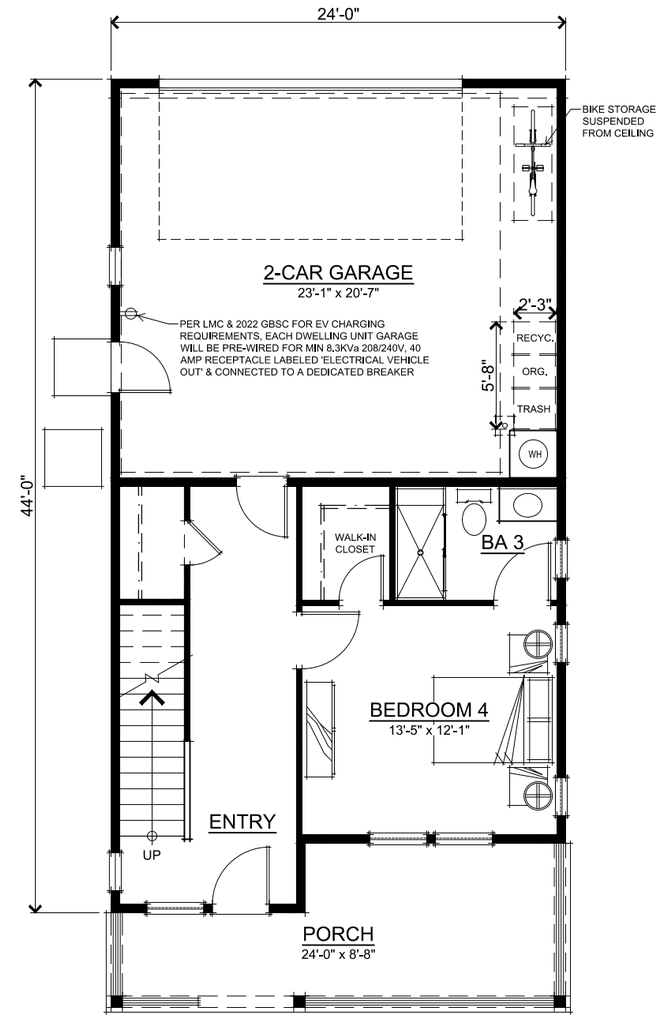


THIRD FLOOR PLAN



SECOND FLOOR PLAN



FIRST FLOOR PLAN

SQUARE FOOTAGES	
FIRST FLOOR	501 SQ. FT.
SECOND FLOOR	982 SQ. FT.
THIRD FLOOR	970 SQ. FT.
TOTAL LIVING	2453 SQ. FT.
2-CAR GARAGE	505 SQ. FT.
PORCH 'A'	180 SQ. FT.
DECK 'A'	170 SQ. FT.

0 1' 2' 3' 4' 8'

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PLAN 3 FLOOR PLANS
A25

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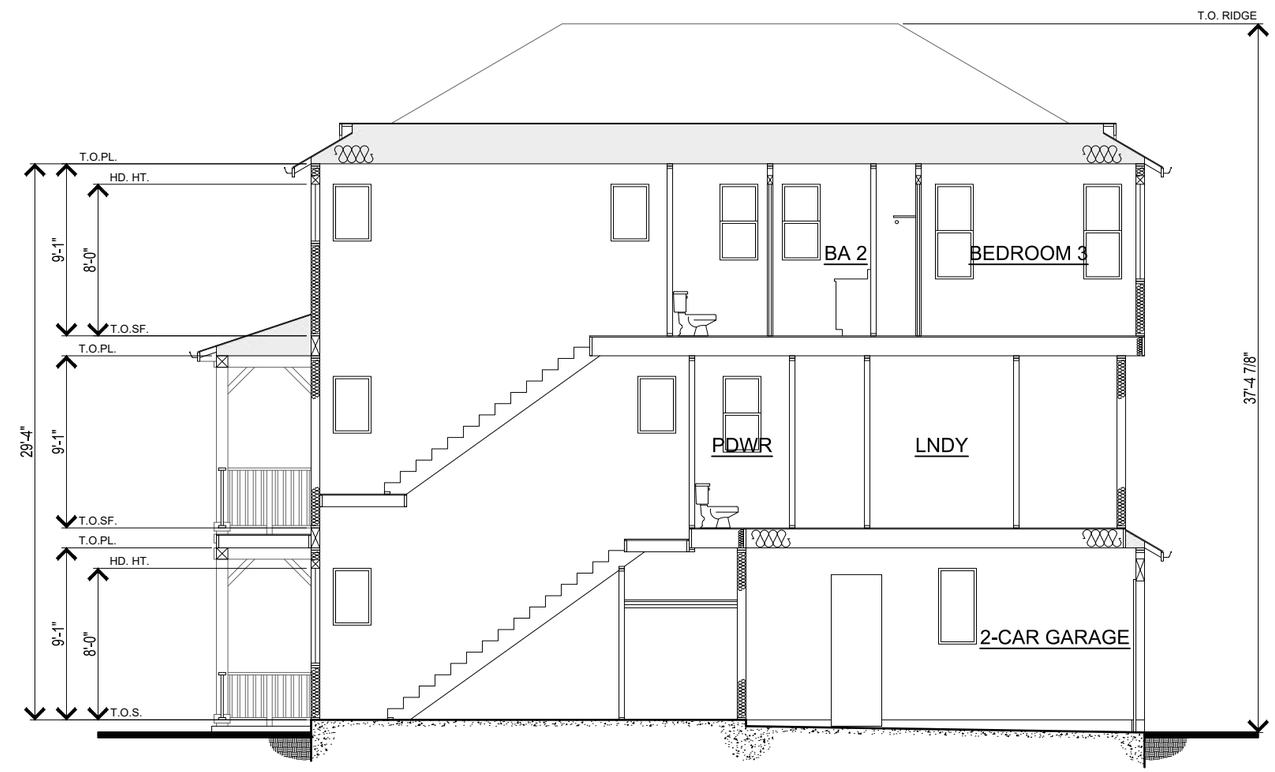

SECTION

0 1' 2' 3' 4' 8'

PLAN 3 SECTION
A25.1

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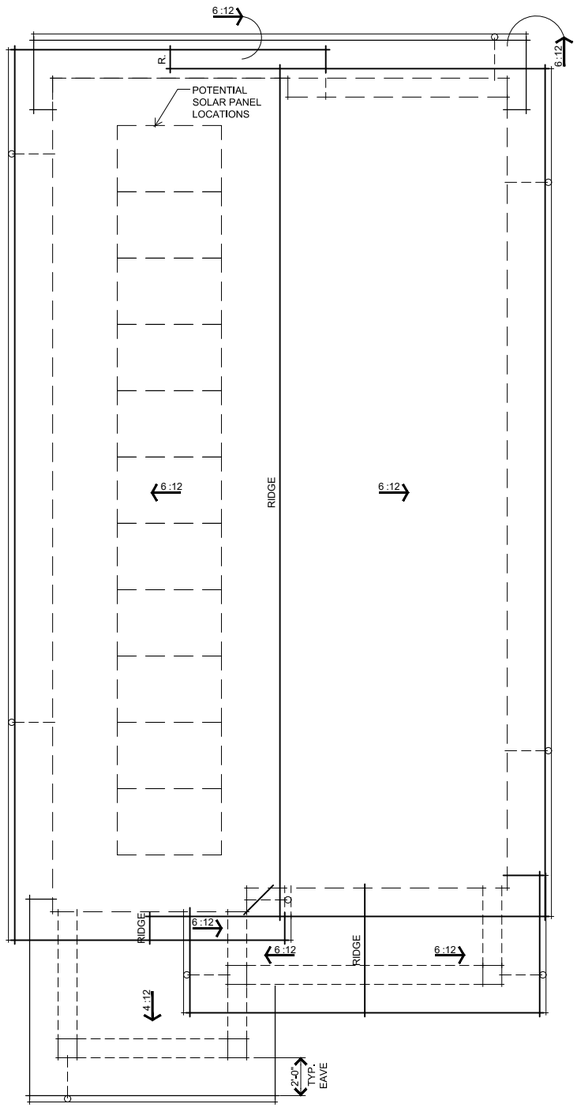
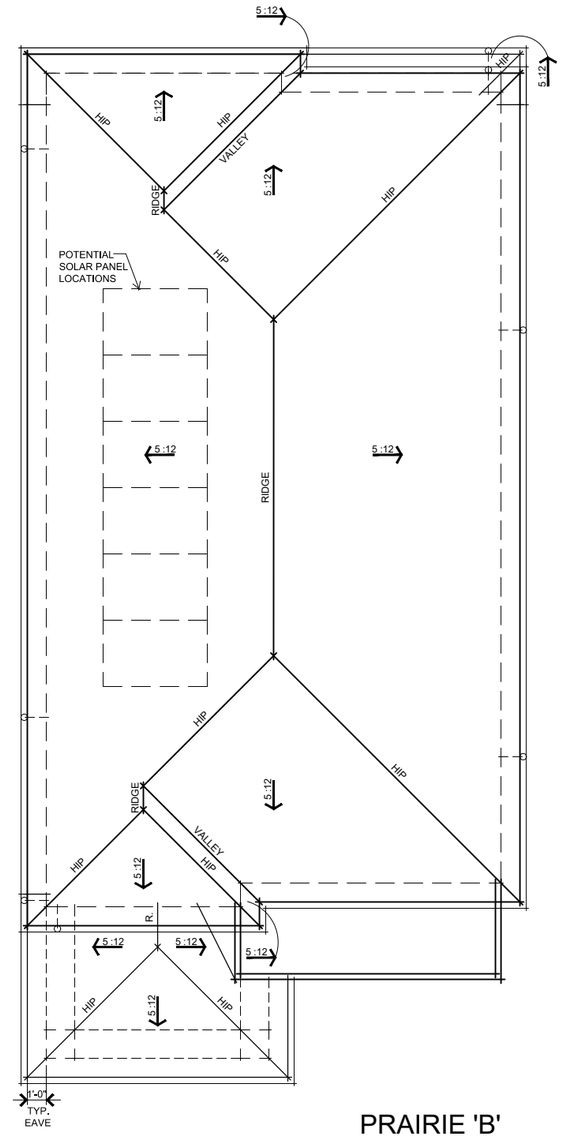
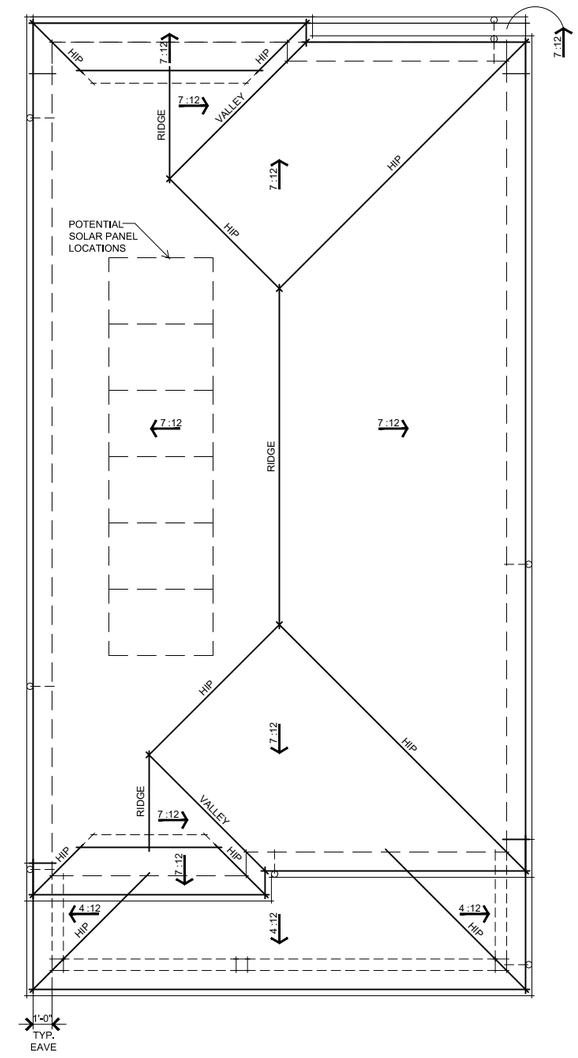


CRAFTSMAN 'C'



PRAIRIE 'B'



RANCH 'A'

0 1' 2' 3' 4' 8'

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PLAN 3 ROOF PLANS
A26

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EXTERIOR MATERIALS

RANCH ELEVATION

COMP. SHINGLE ROOFING
BOARD AND BATTEN SIDING
HORIZONTAL LAP SIDING
WOOD POSTS
WOOD RAILING
WOOD-GRAIN FOAM POTSHELFS
WOOD-GRAIN FOAM SHUTTERS
2X WOOD WINDOW TRIM
DECORATIVE GARAGE DOOR
DECORATIVE CORBELS

RANCH 'A' RIGHT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

RANCH 'A' FRONT ELEVATION

0 1' 2' 3' 4' 8'

PLAN 3 RANCH 'A' FRONT & RIGHT ELEVATIONS
A27

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RANCH 'A' LEFT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

RANCH 'A' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 3 RANCH 'A' REAR & LEFT ELEVATIONS
A28

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RANCH 'A' ENHANCED LEFT ELEVATION

(ELEVATION VISIBLE FROM PUBLIC REALM)

RANCH 'A' ENHANCED RIGHT ELEVATION

(ELEVATION VISIBLE FROM PUBLIC REALM)

0 1' 2' 3' 4' 8'

PLAN 3 RANCH 'A' ENHANCED RIGHT & LEFT ELEVATIONS

A29

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EXTERIOR MATERIALS

PRAIRIE ELEVATION

COMP. SHINGLE ROOFING
HORIZONTAL LAP SIDING
STUCCO
BRICK VENEER
STUCCO o/ FOAM TRIM
2X WOOD TRIM
DECORATIVE GARAGE DOOR

PRAIRIE 'B' RIGHT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

PRAIRIE 'B' FRONT ELEVATION

0 1' 2' 3' 4' 8'

PLAN 3 PRAIRIE 'B' FRONT & RIGHT ELEVATIONS
A30

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PRAIRIE 'B' LEFT ELEVATION

(ELEVATION VISIBLE
FROM PUBLIC REALM)

PRAIRIE 'B' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 3 PRAIRIE 'B' REAR & LEFT ELEVATIONS

A31

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EXTERIOR MATERIALS

CRAFTSMAN ELEVATION

COMP. SHINGLE ROOFING
HORIZONTAL LAP SIDING
SHINGLE SIDING
STONE VENEER
BUILT-UP COLUMN & CORBELS
WOOD-GRAIN FOAM POTSHELF
WOOD-GRAIN FOAM OUTLOOKER
2X WOOD TRIM
DECORATIVE GARAGE DOOR

CRAFTSMAN 'C' RIGHT ELEVATION

(ELEVATION NOT VISIBLE
FROM PUBLIC REALM)

CRAFTSMAN 'C' FRONT ELEVATION

0 1' 2' 3' 4' 8'

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PLAN 3 CRAFTSMAN 'C' FRONT & RIGHT ELEVATIONS
A32

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CRAFTSMAN 'C' LEFT ELEVATION

(ELEVATION VISIBLE
FROM PUBLIC REALM)

CRAFTSMAN 'C' REAR ELEVATION

0 1' 2' 3' 4' 8'

PLAN 3 CRAFTSMAN 'C' REAR & LEFT ELEVATIONS

A33

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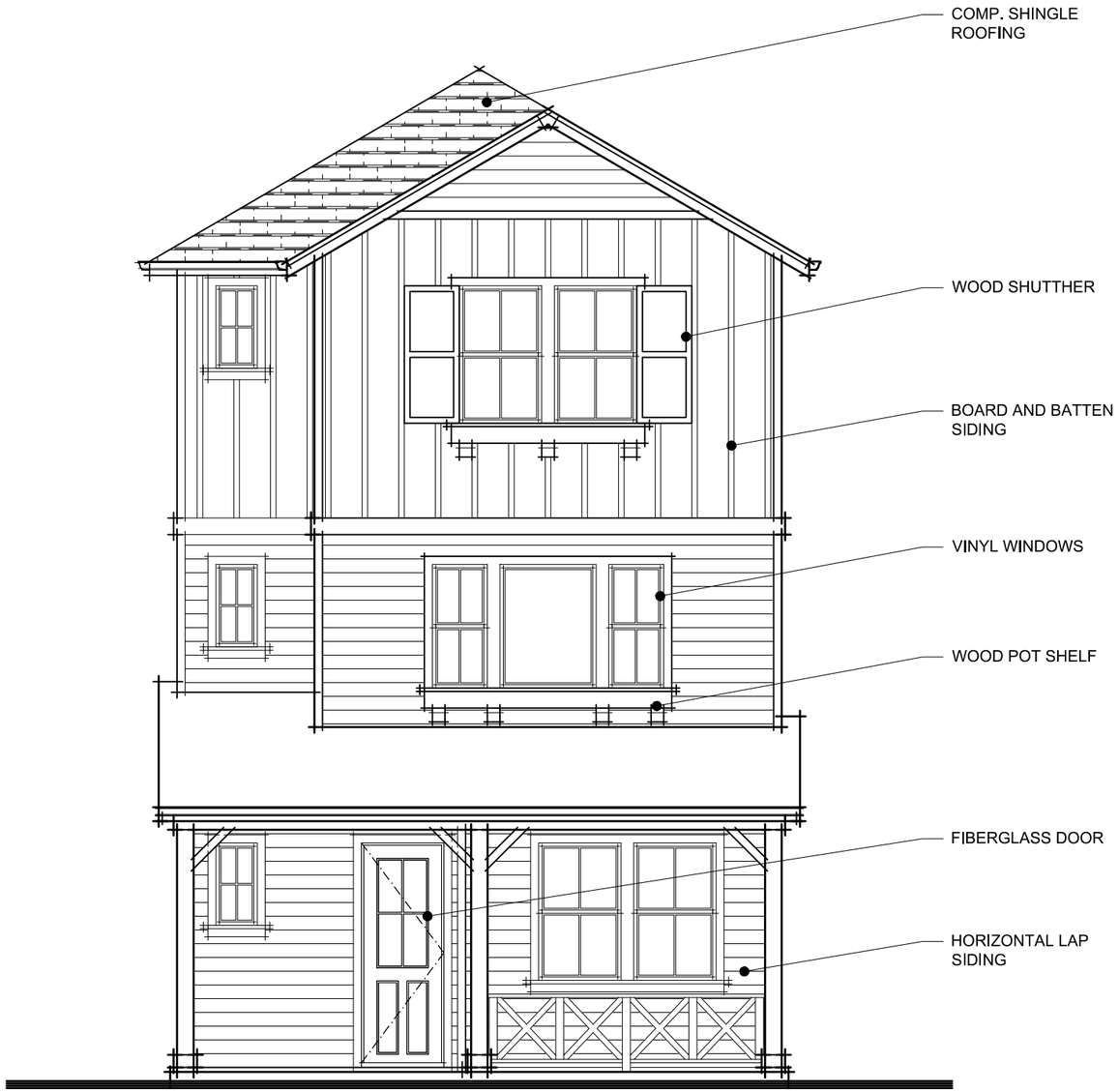
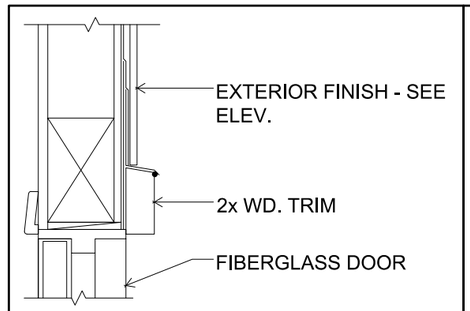
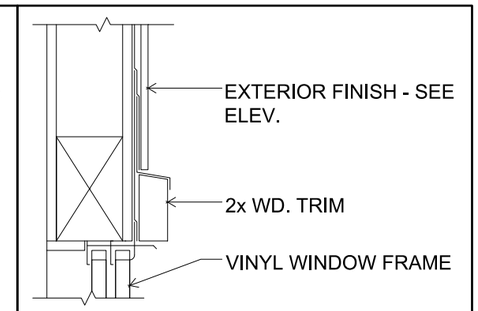




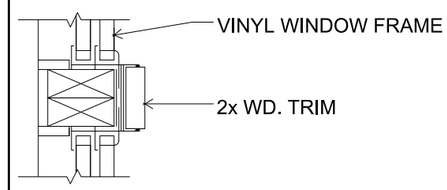
DOOR HEAD w/ TRIM

SCALE: 3"=1'-0"



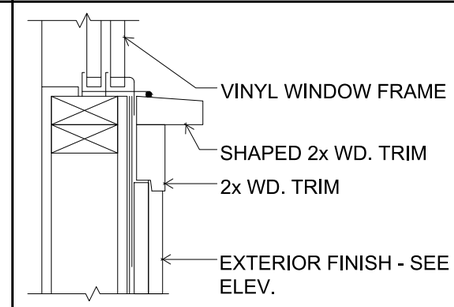
WINDOW HEAD w/ TRIM

SCALE: 3"=1'-0"



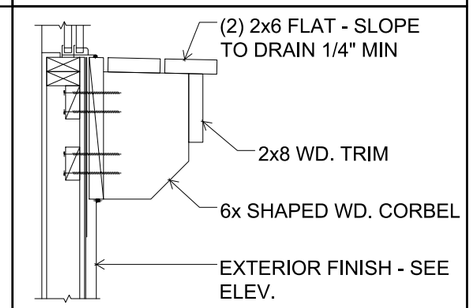
TRIM BETWEEN WINDOWS

SCALE: 3"=1'-0"



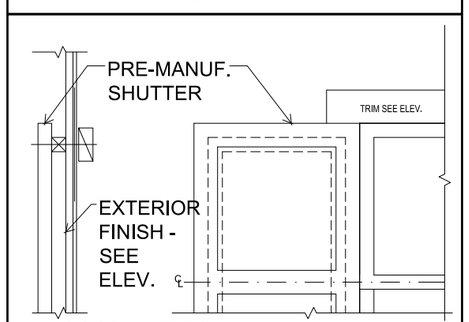
WINDOW SILL w/ TRIM

SCALE: 3"=1'-0"



WOOD POT SHELF

SCALE: 1 1/2"=1'-0"



WOOD SHUTTER

SCALE: 1 1/2"=1'-0"

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RANCH DOOR & WINDOW DETAILS
A34

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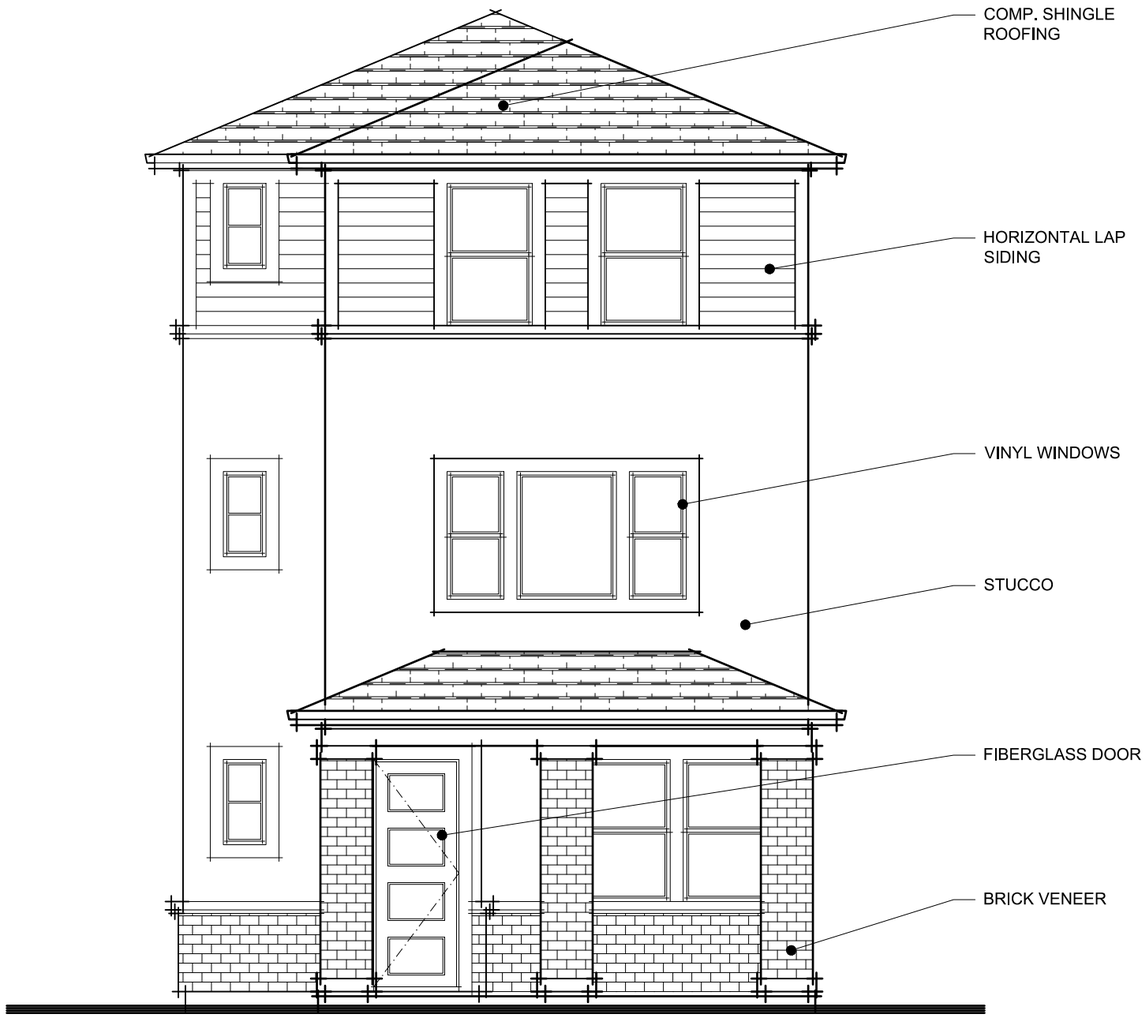

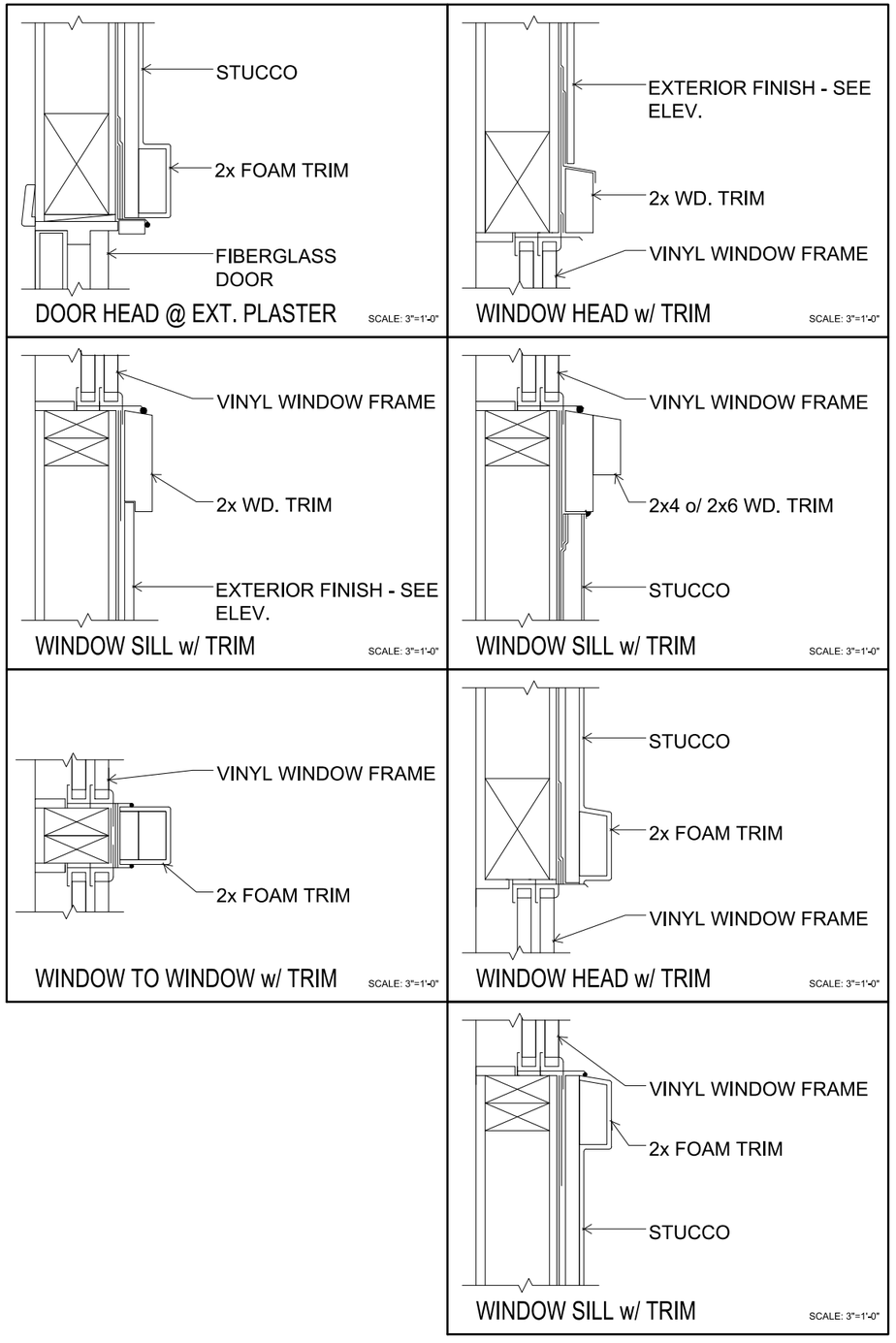

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PRAIRIE DOOR & WINDOW DETAILS
A35

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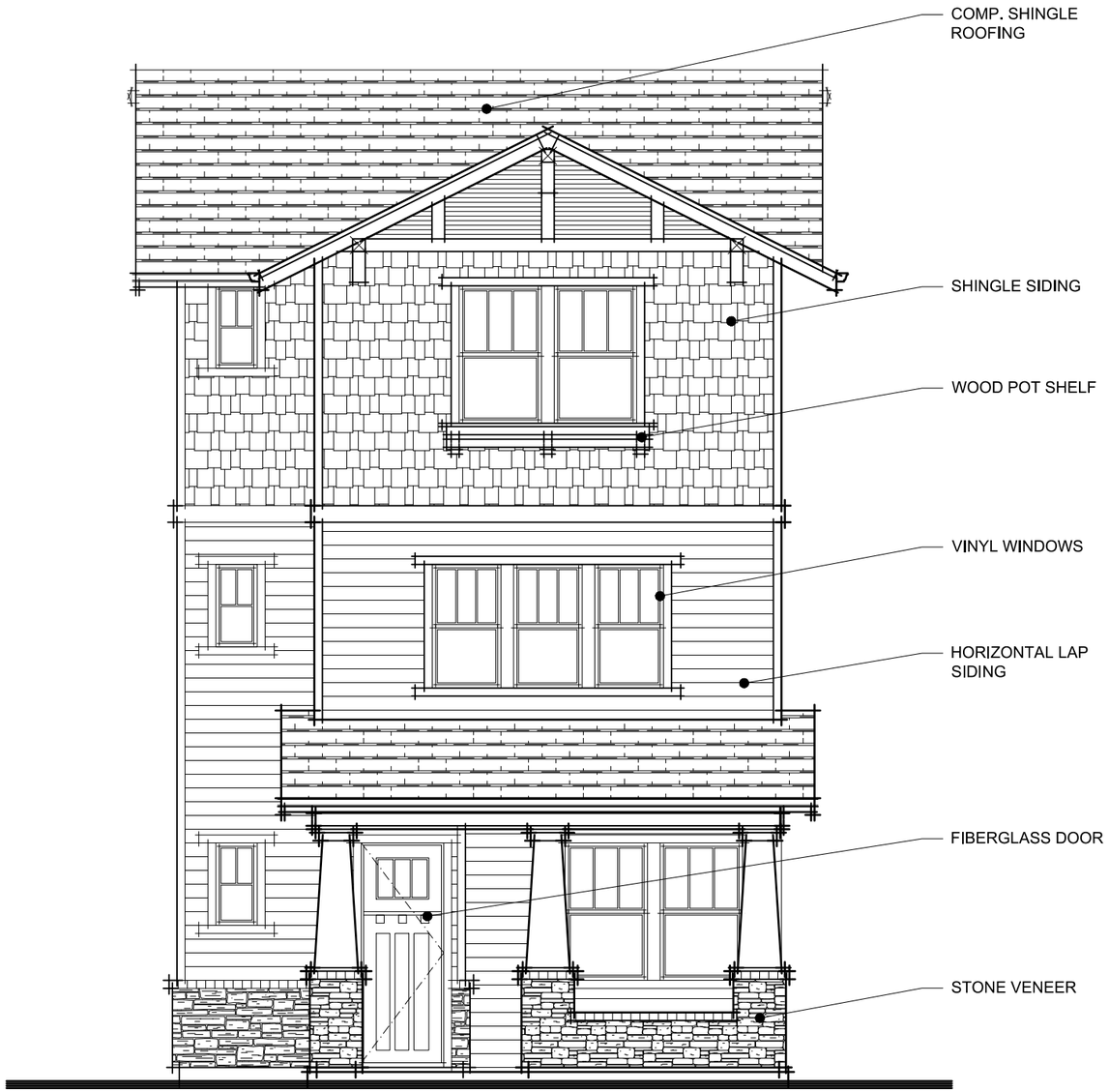

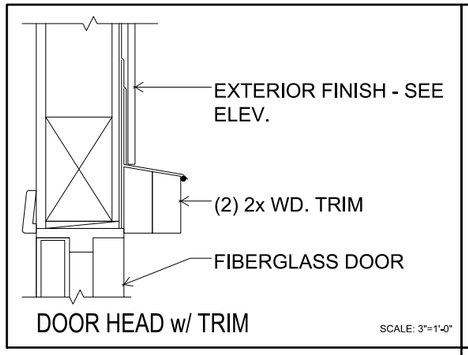

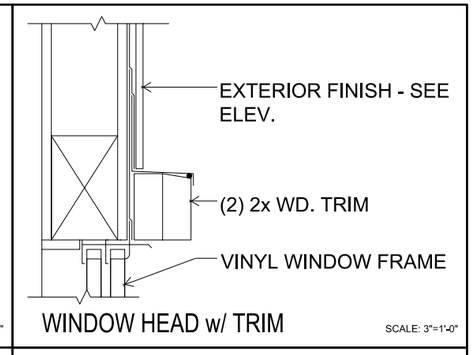

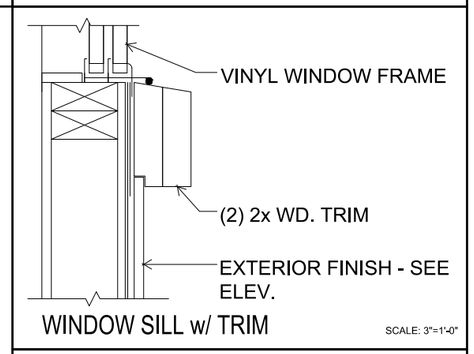

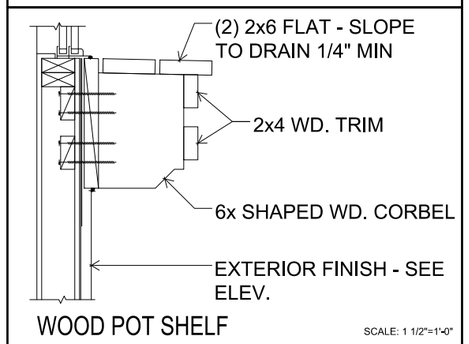

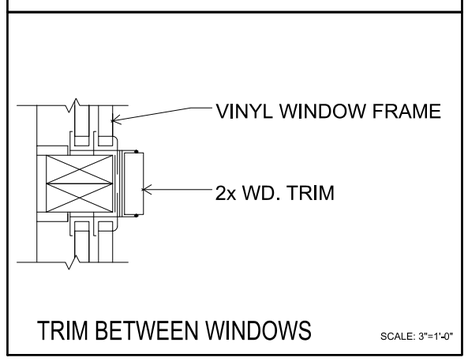

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June 3, 2024

CRAFTSMAN DOOR & WINDOW DETAILS
A36

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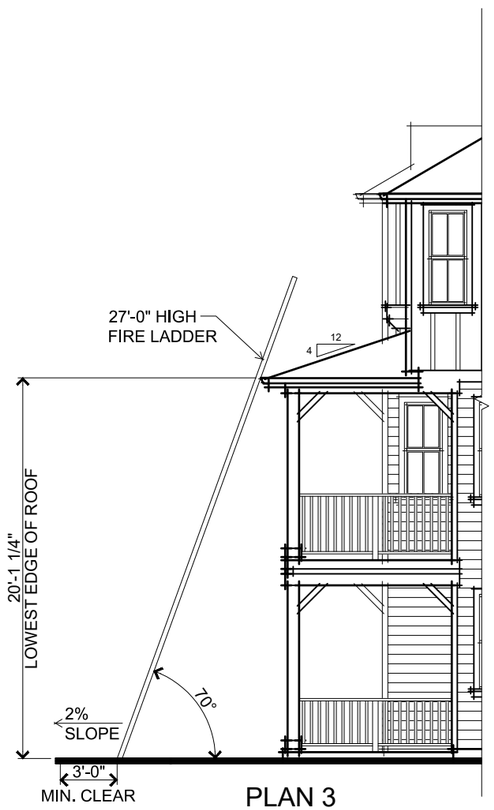
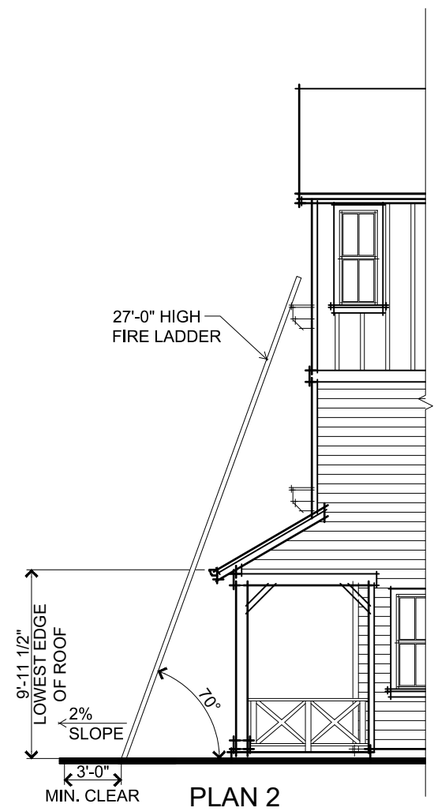
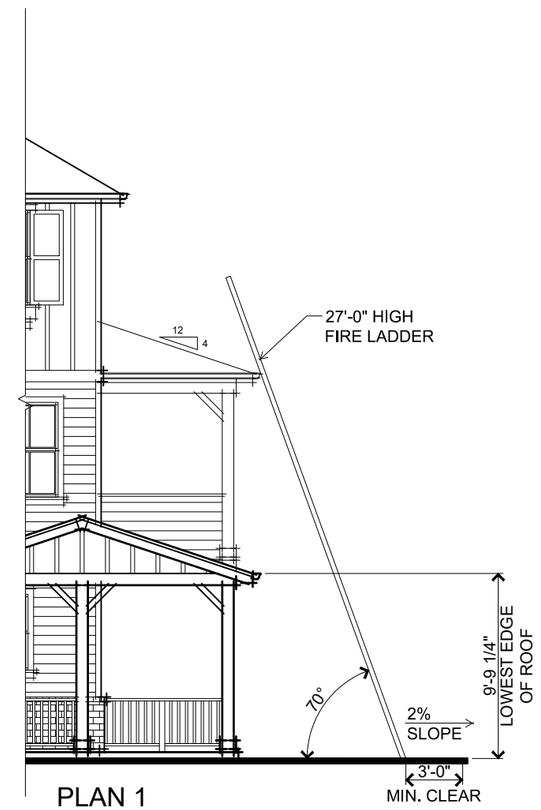


PLAN 3
C RIGHT ELEVATION



PLAN 2
B RIGHT ELEVATION



PLAN 1
A FRONT ELEVATION

0 1' 2' 3' 4' 8'

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June 3, 2024

LADDER REACH REQUIREMENTS
A37

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CRAFTSMAN COLOR SCHEMES

SCHEME 1

Roofing
CertainTeed Landmark Pro
Weathered Wood

Body 1
SW 9170 Acier (244-C4)

Body 2
SW 7728 Green Sprout (298-C4)

Trim & Fascia & Railing
SW 6140 Moderate White (266-C3)

Shutters & Entry Door
SW 7026 Griffin (241-C8)

Stone
ElDorado Stone
Mesa Verde Mountain Ledge

SCHEME 2

Roofing
CertainTeed Landmark Pro
Weathered Wood

Body 1
SW 7738 Cargo Pants (298-C1)

Body 2
SW 6200 Link Gray (216-C5)

Trim & Fascia & Railing
SW 7047 Porpoise (245-C8)

Shutters & Entry Door
SW 2802 Rookwood Terra Cotta (309)

Stone
ElDorado Stone
Mesa Verde Mountain Ledge

SCHEME 3

Roofing
CertainTeed Landmark Pro
Heather Blend

Body 1
SW 7023 Requisite Gray (241-C2)

Body 2
SW 9168 Elephant Bar (241-C40)

Trim & Fascia & Railing
SW 7026 Griffin (241-C8)

Shutters & Entry Door
SW 7705 Wheat Penny (287-C8)

Stone
ElDorado Stone
Shasta Mountain Ledge

RANCH COLOR SCHEMES

SCHEME 4

Roofing
CertainTeed Landmark Pro
Weathered Wood

Body
SW 6121 Whole Wheat (141-C2)

Trim & Fascia & Railing
SW 0023 Pewter Tankard (301)

Shutters & Entry Door
SW 7048 Urbane Bronze (245-C7)

Brick
ElDorado Brick
Tundrabrick - Ashland

SCHEME 5

Roofing
CertainTeed Landmark Pro
Weathered Wood

Body
SW 9165 Gossamer Veil (238-C1)

Trim & Fascia & Railing
SW 7551 Greek Villa (254-C1)

Shutters & Entry Door
SW 2816 Rookwood Dark Green (310)

Brick
ElDorado Brick
Tundrabrick - Chalk Dust

SCHEME 6

Roofing
CertainTeed Landmark Pro
Moire Black

Body
SW 6255 Morning Fog (234-C3)

Trim & Fascia & Railing
SW 7570 Egret White (255-C4)

Shutters & Entry Door
SW 7674 Peppercorn (236-C7)

Brick
ElDorado Brick
Tundrabrick - Latigo

Note: *All colors and textures are representative samples only, pending verification of actual material suppliers and manufacturers for this particular project.*

Windows
White or Tan Vinyl Color

373.015 **Pell Property Single Family Detached**
Livermore
June 3, 2024

COLOR SCHEMES
A38

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3001 Bishop Drive, Suite 100, San Ramon, CA 94583
925.999.3956

SDG Architects, Inc.
3361 Walnut Blvd. Suite 120
Brentwood, CA 94513
925.634.7000 | sdgarchitectinc.com

PRAIRIE COLOR SCHEMES

SCHEME 7

Roofing
CertainTeed Landmark Pro
Moire Black

Exterior Plaster
SW 7570 Egret White (255-C4)

Siding
SW 6034 Mink (240-C5)

Trim & Fascia
SW 7504 Keystone Gray (243-C5)

Shutters & Entry Door
SW 7069 Iron Ore (251-C7)

Brick
ElDorado Brick
Tundrabrick - Ashland

SCHEME 8

Roofing
CertainTeed Landmark Pro
Weathered Wood

Exterior Plaster
SW 7633 Taupe Tone (248-C4)

Siding
SW 7539 Cork Wedge (292-C4)

Trim & Fascia
SW 7643 Pussywillow (283-C4)

Shutters & Entry Door
SW 7026 Griffin (241-C8)

Brick
ElDorado Brick
Tundrabrick - Riverbed

SCHEME 9

Roofing
CertainTeed Landmark Pro
Weathered Wood

Exterior Plaster
SW 7567 Natural Tan (284-C1)

Siding
SW SW 7737 Meadow Trail (286-C7)

Trim & Fascia
SW 77019 GauntletGray (244-C8)

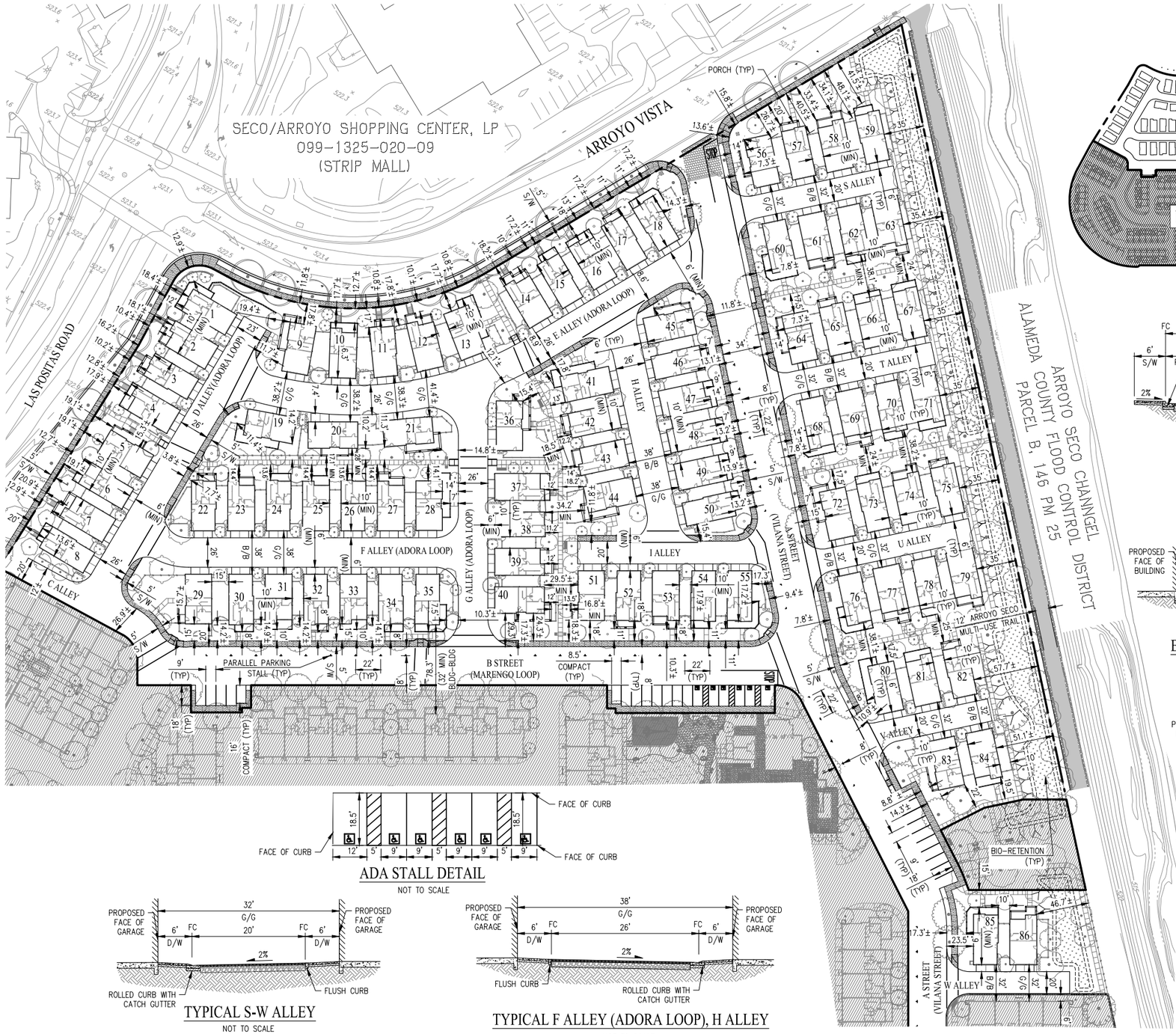
Shutters & Entry Door
SW 7591 Red Barn (275-C7)

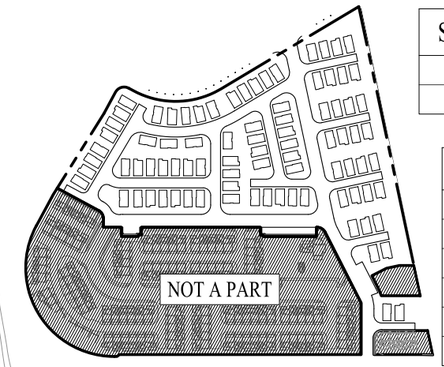
Brick
ElDorado Brick
Tundrabrick - Ironside

Note: *All colors and textures are representative samples only, pending verification of actual material suppliers and manufacturers for this particular project.*

Windows
White or Tan Vinyl Color

EXHIBIT B





KEY MAP
NOT TO SCALE

SINGLE FAMILY SEPARATION	
GARAGE FACE TO GARAGE FACE	38'
YARD SEPARATION	10'

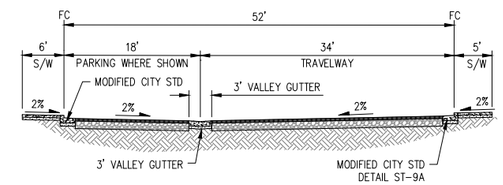
SINGLE FAMILY SETBACK	
FRONT PORCH SETBACK AT STREET	7'
FRONT PORCH SETBACK ALONG FRONTAGE	10'
FRONT WALL PLAN SETBACK STREET & FRONTAGE	17'
WIDTH OF PASEO	15'
ARROYO SECO CHANNEL SETBACK	35'
SIDE YARD ALONG ALLEY	5'

PROJECT SITE AREA: 15.62 AC

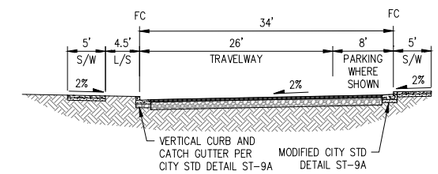
PARKING SUMMARY TABLE	
REQUIRED PARKING (86 SFU * (2 COVERED STALLS + 1 GUEST STALL)	258
PROVIDED PARKING 86 SFU * (2 GARAGE SPACES)	172
GUEST STALLS 86 SFU * (1 GUEST STALL)	86
PROPOSED PUBLIC STALLS (ARROYO VISTA)	15
BIKE PARKING STALLS (SEE LANDSCAPE PLANS FOR LOCATIONS)	18

NOTE: PARKING SUMMARY IS INCLUSIVE OF ENTIRE PROPERTY, INCLUDING STALLS WITHIN PORTION OF PROPERTY MARKED AS "NOT A PART". ONLY 63 STALLS OF THE PROVIDED 86 REQUIRED ARE SHOWN ON THIS SITE PLAN.

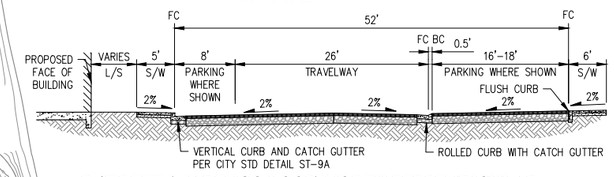
EV CHARGING, EV READY, EV CAPABLE STALLS ARE ALSO BEING PROVIDED AND ARE A FUNCTION OF THE NUMBER OF MULTI-FAMILY HOME GUEST STALLS BEING PROVIDED (NOT A PART OF THIS PLANSET)



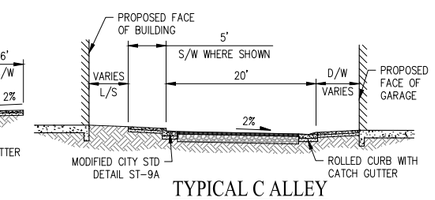
TYPICAL A STREET (VILANA STREET)WITH PERPENDICULAR PARKING
NOT TO SCALE



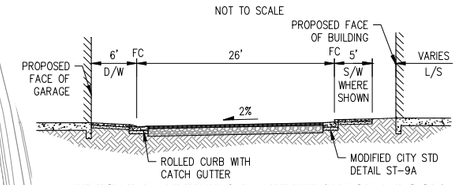
TYPICAL A STREET (VILANA STREET) WITH PARALLEL PARKING
NOT TO SCALE



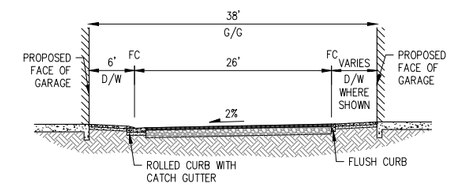
B STREET (MARENGO LOOP) NORTH PERPENDICULAR PARKING W/ ROLLED CURB
NOT TO SCALE



TYPICAL C ALLEY
NOT TO SCALE



TYPICAL D ALLEY & E ALLEY (ADORA LOOP)
NOT TO SCALE

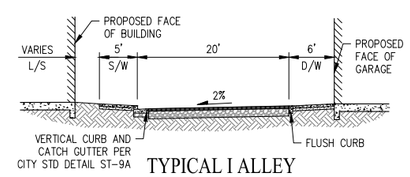


E ALLEY (ADORA LOOP) WITH FACING DRIVEWAYS
NOT TO SCALE

ADA STALL DETAIL
NOT TO SCALE

TYPICAL S-W ALLEY
NOT TO SCALE

TYPICAL F ALLEY (ADORA LOOP), H ALLEY
NOT TO SCALE



TYPICAL I ALLEY
NOT TO SCALE

LEGEND

- BOUNDARY LINE
- RIGHT OF WAY
- FACE OF CURB
- PARALLEL PARKING STALL
- ACCESSIBLE PARKING STALL
- UNIT NUMBER
- AIR CONDITIONER
- BIO-RETENTION AREA

ABBREVIATIONS

B/B	BUILDING TO BUILDING
EX	EXISTING
FC	FACE OF CURB
G/G	GARAGE TO GARAGE
L/S	LANDSCAPE
PL	PROPERTY LINE
R/W	RIGHT OF WAY
S/W	SIDEWALK
TYP	TYPICAL

373.015 Pell Property Single Family Detached - Tract # 8714
Livermore
June 11, 2024

SITE PLAN (WEST)

PD.1

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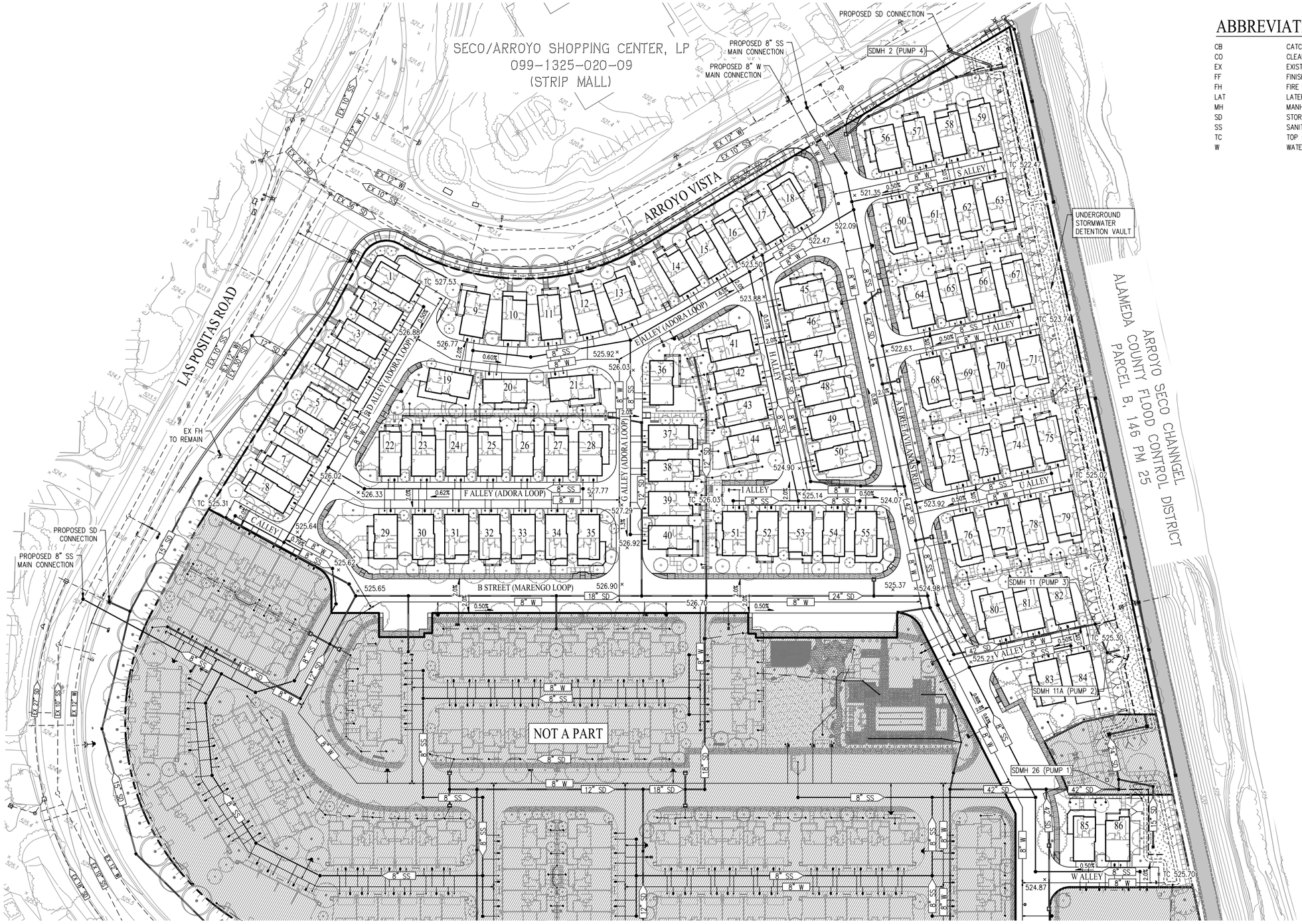
925.999.3956

0 50 100 150

cbg CIVIL ENGINEERS SURVEYORS PLANNERS
SAN RAMON • ROSEVILLE

EXHIBIT B

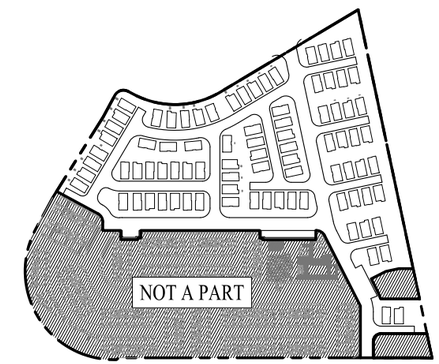


ABBREVIATIONS

CB	CATCH BASIN
CO	CLEAN OUT
EX	EXISTING
FF	FINISHED FLOOR
FH	FIRE HYDRANT
LAT	LATERAL
MH	MANHOLE
SD	STORM DRAIN
SS	SANITARY SEWER
TC	TOP OF CURB
W	WATER

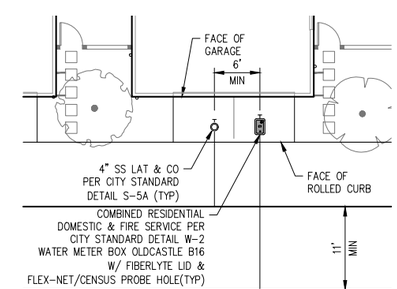
LEGEND

	BOUNDARY LINE
	RIGHT OF WAY LINE
EX 36" SD	EXISTING STORM DRAIN
EX 10" SS	EXISTING SANITARY SEWER
EX 12" W	EXISTING WATER MAIN
	EXISTING STORM DRAIN CATCH BASIN
	EXISTING STORM DRAIN MANHOLE
	EXISTING SANITARY SEWER MANHOLE
	EXISTING FIRE HYDRANT
	EXISTING WATER VALVE
12" SD	PROPOSED STORM DRAIN
8" SS	PROPOSED SANITARY SEWER
8" W	PROPOSED WATER
	STORM DRAIN CATCH BASIN
	STORM DRAIN AREA DRAIN
	STORM DRAIN MANHOLE
	SANITARY SEWER MANHOLE
	FIRE HYDRANT
	WATER VALVE
	BIO-RETENTION AREA



KEY MAP

NOT TO SCALE



TYPICAL SINGLE FAMILY WATER AND SANITARY SEWER SERVICE DETAIL

NOT TO SCALE

373.015 Pell Property Single Family Detached - Tract # 8714
Livermore
June 11, 2024

GRADING AND UTLITY PLAN (WEST)

PD.2

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0 50 100 150

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EXHIBIT B

ORIFICE SIZE (DRAIN HOLE OPENING) SUMMARY

BR	DIAMETER (INCHES)
1	0.50
2	2.25
3	1

ABBREVIATIONS

BR	BIO-RETENTION AREA DESIGNATION
DMA	DRAINAGE MANAGEMENT AREA
EX	EXISTING
P	PUMP
SD	STORM DRAIN

LEGEND

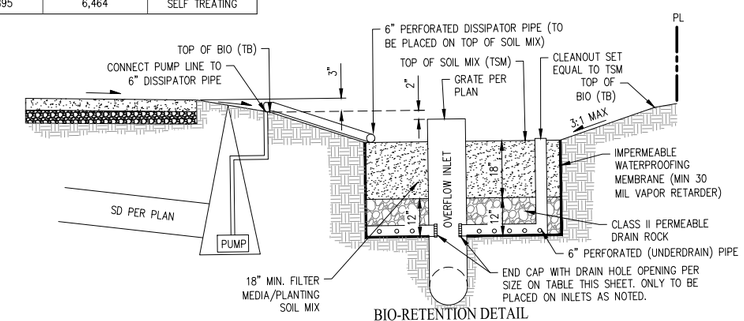
- PROPOSED DRAINAGE AREA BOUNDARY
- EXISTING STORM DRAIN
- PROPOSED STORM DRAIN
- PROPOSED STORM DRAIN
- PROPOSED STORM DRAIN FORCE PUMP MAIN
- EXISTING MANHOLE
- PROPOSED MANHOLE
- EXISTING CURB INLET
- PROPOSED CURB INLET
- EXISTING FIELD INLET
- PROPOSED FIELD INLET
- PROPOSED AREA DRAIN
- PROPOSED BIO-RETENTION AREA
- UNDERGROUND STORMWATER DETENTION VAULT
- DRAINAGE MANAGEMENT AREA LABEL
- CURB CUT
- DIRECTION OF FLOW WITH STORM DRAIN INSTALLED

STORM WATER TREATMENT SUMMARY

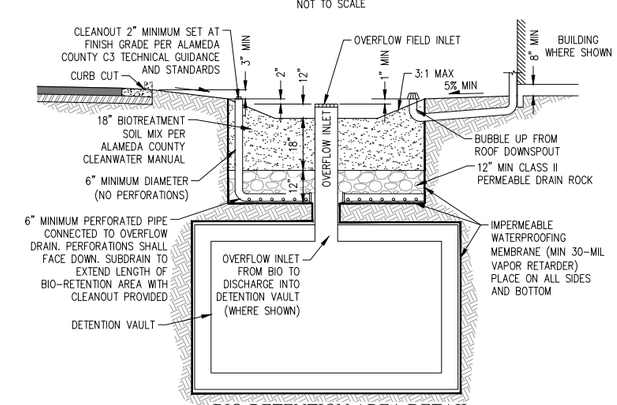
DMA	TOTAL AREA	IMPERVIOUS AREA (SF)	PERVIOUS AREA (SF)	TREATMENT AREA REQUIRED (SF)	TREATMENT AREA PROVIDED (SF)	TREATMENT TYPE	A RISER HEIGHT (FT)
1	45,410	27,601	17,809	645	2,071	BIO RETENTION	1
2	548,741	277,242	271,499	6,680	7,054	BIO RETENTION	1
3	86,256	69,411	16,845	1,560	1,777	BIO RETENTION	1
TOTAL	680,407	374,254	306,153	8,885	10,902		

OFFSITE TREATMENT SUMMARY

DMA	TOTAL AREA (SF)	IMPERVIOUS AREA (SF)	PERVIOUS AREA (SF)	TREATMENT TYPE
ST-1	13,388	3,772	9,616	SELF TREATING
ST-2	8,410	4,368	4,042	SELF TREATING
ST-3	15,403	7,308	8,095	SELF TREATING
ST-4	14,421	6,583	7,838	SELF TREATING
ST-5	14,821	5,985	8,836	SELF TREATING
ST-6	22,571	10,778	11,793	SELF TREATING
ST-7	5,575	4,583	992	SELF TREATING
ST-8	9,359	2,895	6,464	SELF TREATING



BIO-RETENTION DETAIL
(AT OVERFLOW INLETS NOT ATTACHED TO HYDROMOD VAULT)
NOT TO SCALE



BIO-RETENTION AREA DETAIL
NOT TO SCALE

373.015 Pell Property Single Family Detached - Tract # 8714
Livermore
June 11, 2024

STORMWATER CONTROL PLAN (WEST)

PD.3

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925.999.3956

0 60 120 180

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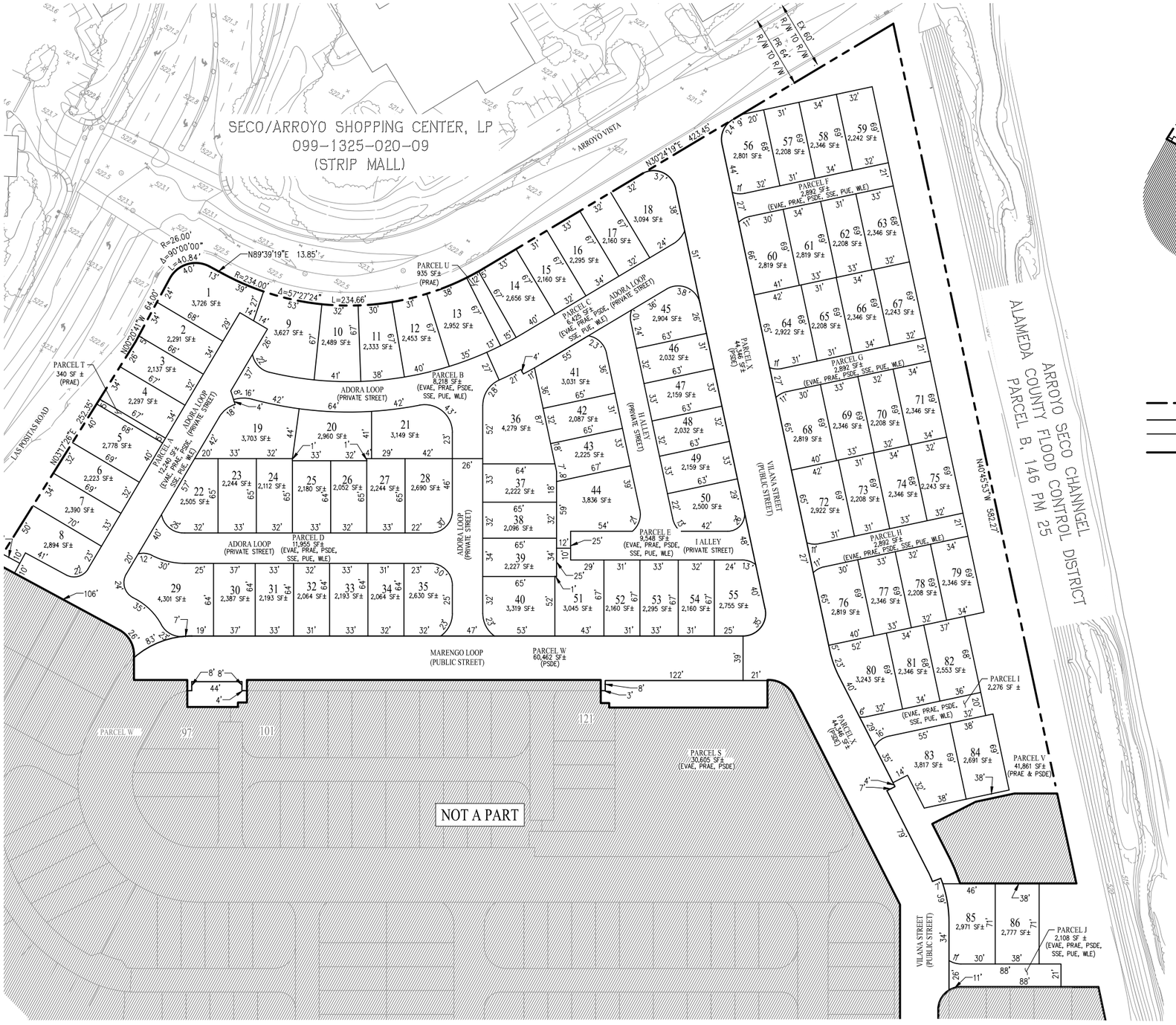
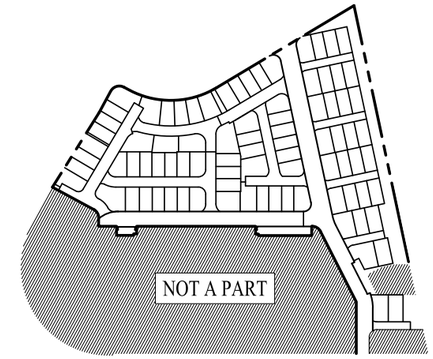
EXHIBIT B





KEY MAP
NOT TO SCALE

LEGEND

- BOUNDARY LINE
- RIGHT OF WAY
- LOT LINE
- DELINEATION LINE FOR "NOT A PART"
- 1 LOT NUMBER

ABBREVIATIONS

EVAE	EMERGENCY VEHICLE ACCESS EASEMENT
PAE	PUBLIC ACCESS EASEMENT
PRAE	PRIVATE ACCESS EASEMENT
PSDE	PRIVATE STORM DRAIN EASEMENT
PSE	PUBLIC SERVICE EASEMENT
PSSE	PUBLIC SANITARY SEWER EASEMENT
PUE	PUBLIC UTILITY EASEMENT
PWE	PUBLIC WATER LINE EASEMENT

373.015 Pell Property Single Family Detached - Tract # 8714
Livermore
June 11, 2024

LOTTING PLAN (WEST)

PD-4

Trumark
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925.999.3956

0 50 100 150

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EXHIBIT B

EXHIBIT B

ARROYO VISTA
3' HIGH LOW FENCE & GATE, TYP.
6' HIGH NOISE BARRIER FENCE, TYP.

EXHIBIT B

FLOWERING CANOPY TREES - REFER TO PROPOSED PLANT PALETTE, SEE SHEET L-3

EVERGREEN TREE, TYPICAL - REFER TO PROPOSED PLANT PALETTE, SEE SHEET L-3

G ACCENT TREES WITH NARROW VERGREEN SHRUBS - REFER TO PLANT PALETTE, SEE SHEET L-3

ALL FLOWERING ACCENT TREES TIVELY WITH SMALL EVERGREEN EES BETWEEN UNITS - REFER TO OSED PLANT PALETTE SHEET L-3

6' HIGH WOOD FENCE WITH GATE BETWEEN UNITS

EXHIBIT B

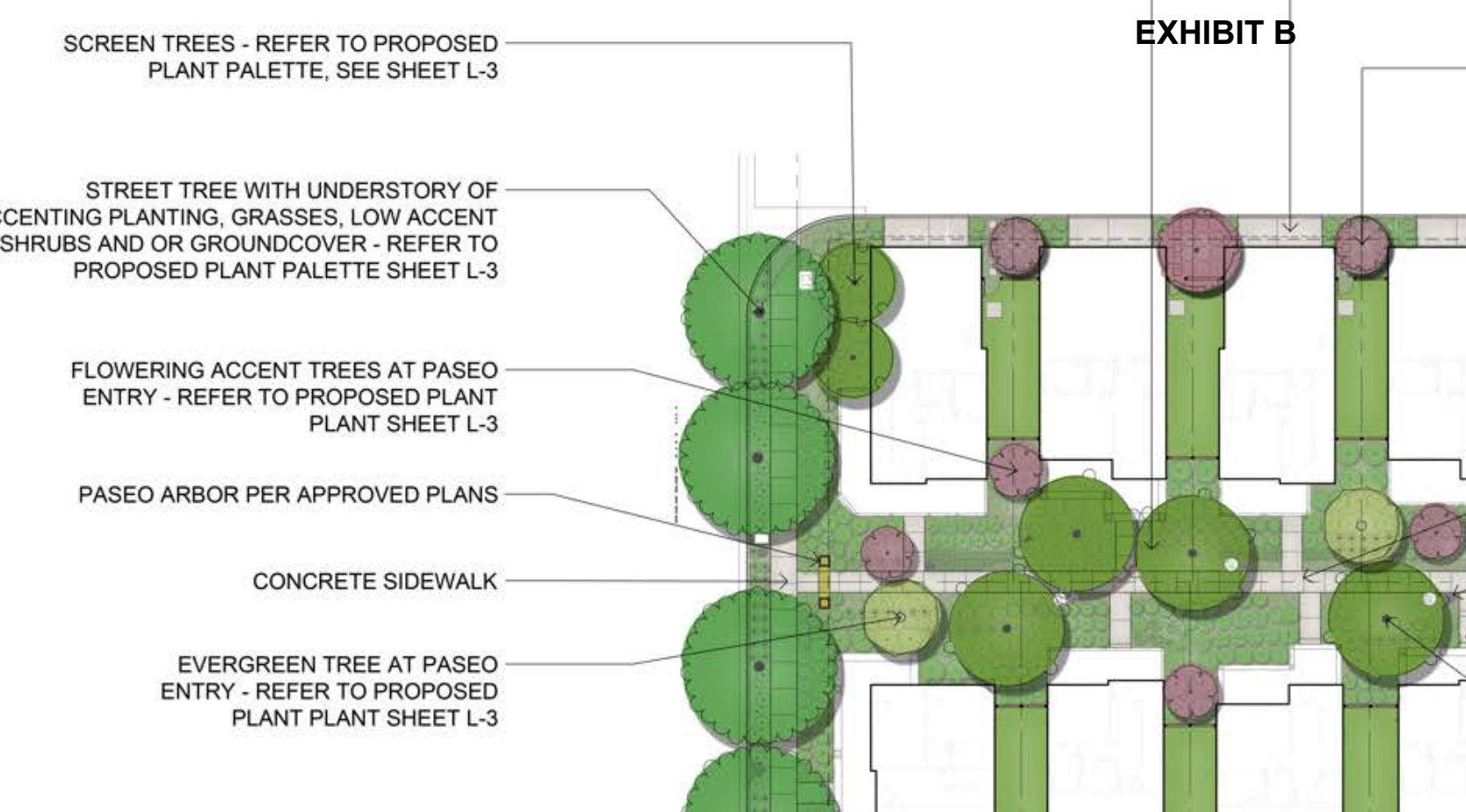

SCREEN TREES - REFER TO PROPOSED PLANT PALETTE, SEE SHEET L-3
STREET TREE WITH UNDERSTORY OF CCENTING PLANTING, GRASSES, LOW ACCENT SHRUBS AND OR GROUNDCOVER - REFER TO PROPOSED PLANT PALETTE SHEET L-3
FLOWERING ACCENT TREES AT PASEO ENTRY - REFER TO PROPOSED PLANT PLANT SHEET L-3
PASEO ARBOR PER APPROVED PLANS
CONCRETE SIDEWALK
EVERGREEN TREE AT PASEO ENTRY - REFER TO PROPOSED PLANT PLANT SHEET L-3

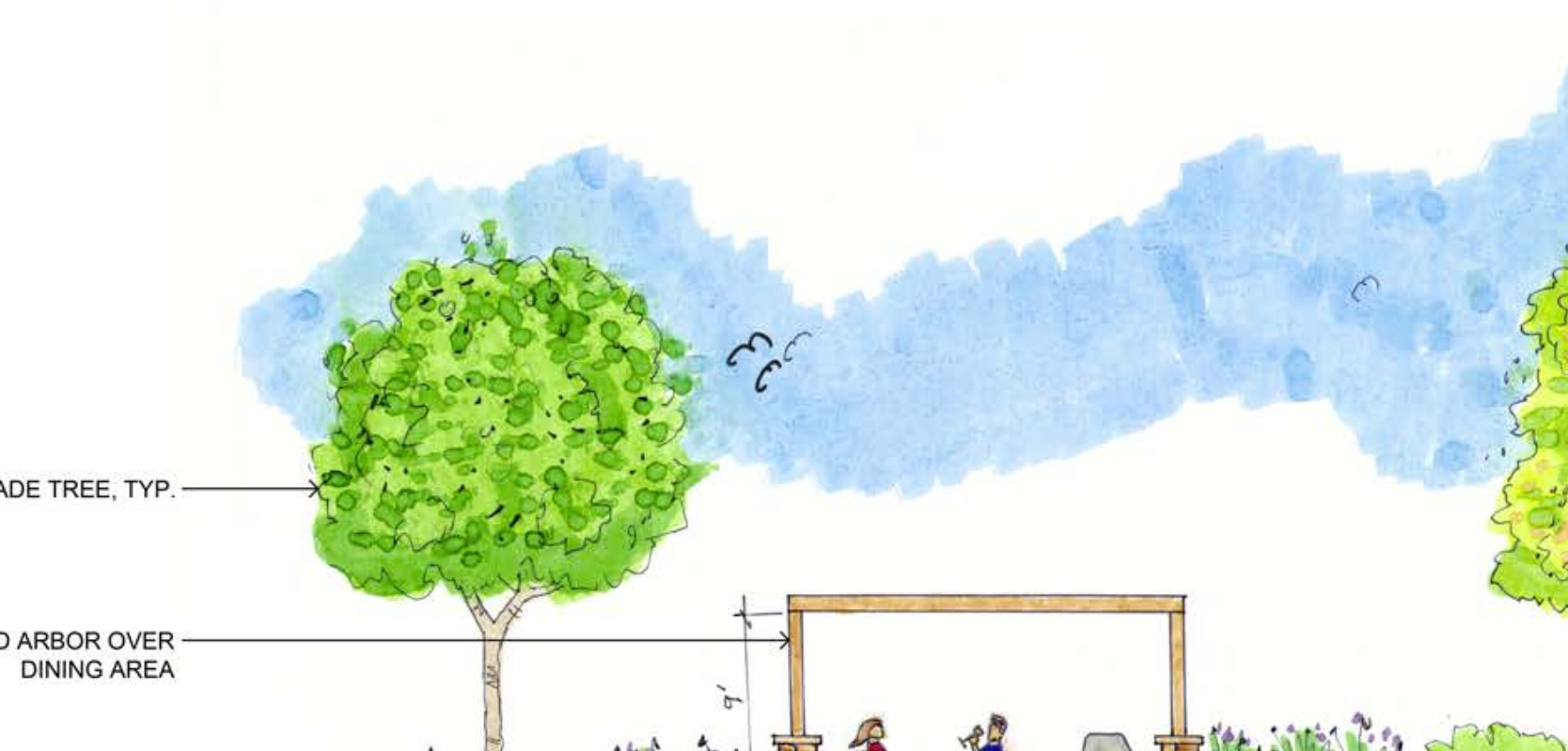
EXHIBIT B

EXHIBIT B

EXHIBIT B

83
84
ULMUS PARVIFOLIA
TRUE GR
ROBINIA PURPLE ROBE
PURPLE L
SHRUBS
DIETES GRANDIFLORA VAR.
STRIPED
LOMANDRA BREEZE
BREEZE M
LORAPETALUM
EMERALD
GROUND COVERS
MYOPORUM PARVIFOLIUM
TRAILING
4 ELM TREES FOR SHADE
DINING TABLES
DINING ROOM WITH WOOD ARBOR
CONCRETE PAVING, TYP.
ROOM/ KITCHEN
TH LOW WALLS,
TCHEN ISLAND
H ELEC. GRILLS
3 FLOWERING TREES. SEE PLANT PALETTE ABOVE FOR SPECIES
LAWN
PICAL
PLANT
ABOVE
ECIES

EXHIBIT B



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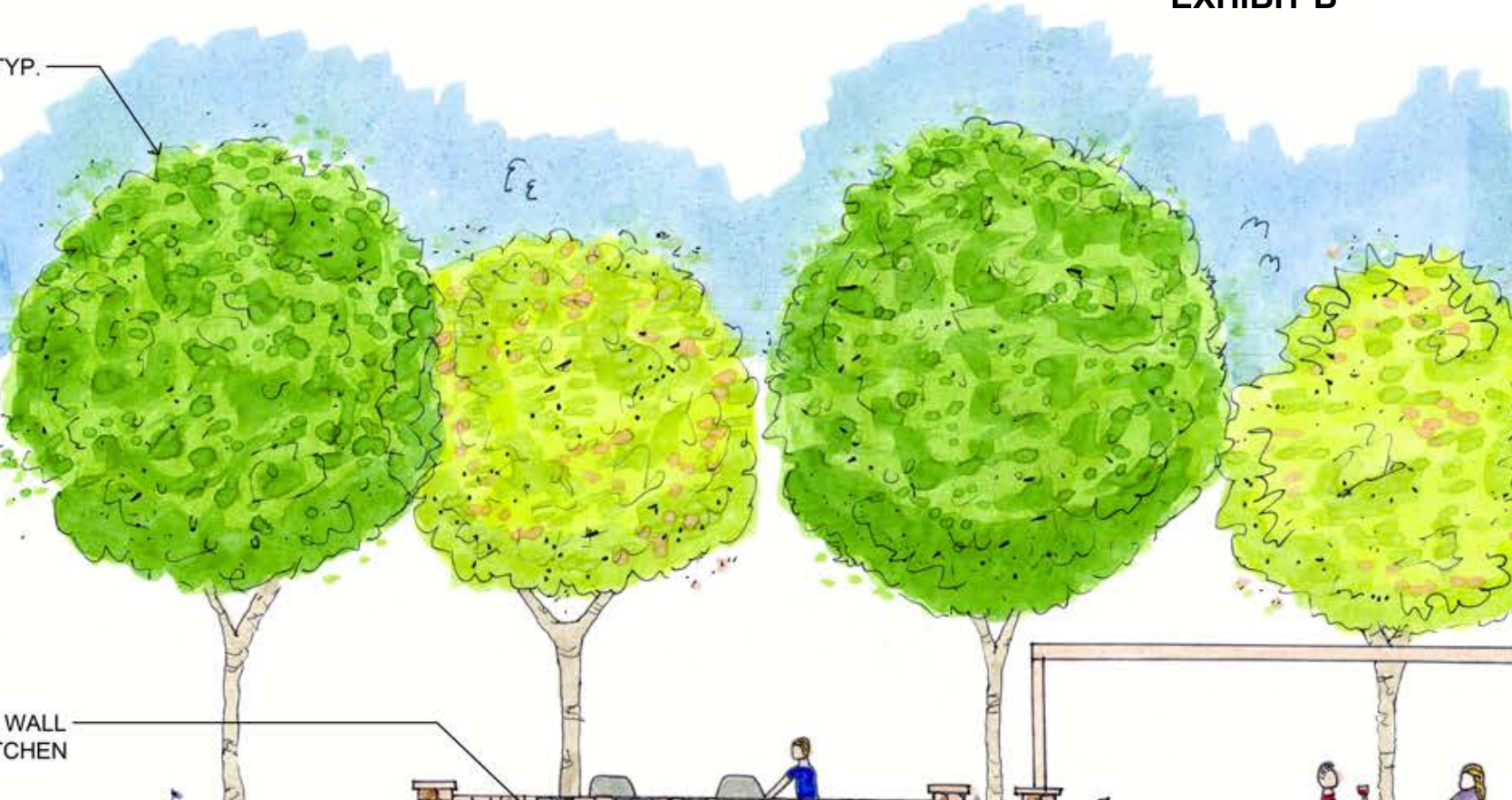
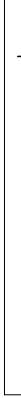


EXHIBIT B

LOW WALLS
MOUNTAIN LEDGE SHASTA WESTERN
TO MATCH CLUBHOUSE STONE

ARBOR



A

ING EXTERIOR PER ARCH. PLANS

TYPICAL ABOVE-GROUND UTILITIES

EXHIBIT B

ntalis	Western Redbud STD	24"box	83	VL, N, P, 20' X 15'
entensis	Chitalpa	24"box	26	L, P, 30' X 30'
aniculata	Golden Rain Tree	24"box	19	M, P, 30' X 30'
`Saratoga`	Sweet Bay	24"box	29	L, P, 40' X 25'
diflora 'Samuel Sommer'	Samuel Sommer Southern Magnolia	24"box	21	M, P, 35' X 30'
diflora `Little Gem`	Dwarf Magnolia	24"box	33	M, P, 25'X 15'
mosa	California Sycamore STD	24"box	4	M, N, 60' X 30'
ta `Amanogawa`	Japanese Flowering Cherry	24"box	87	M, P, 25' X 8'
lia	Coast Live Oak	24"box	9	VL, N, 70' X 50'
	African Sumac	24"box	20	L, P, 25' X 25'
rple Robe`	Purple Robe Locust	24"box	8	L, P, 40' X 25'
a 'Elegant'	Water Gum	24"box	79	M, P, 40' X 25'
ia `True Green`	True Green Elm	24"box	14	M, P, 60' X 50'

AME	COMMON NAME	CONT	QTY	WUCOLS
ia ' True Green'	True Green Elm	24"box	5	M, P, 60' X 50'
	Flowering Tree	24"box	6	L

Callistemon viminalis 'Little John'	Little John Weeping Bottlebrush	5 gal	L, P
Coprosma kirkii	Creeping Mirror Plant	5 gal	L
Coprosma kirkii 'Variegata'	Creeping Mirror Plant	5 gal	L
Dietes bicolor	Fortnight Lily	5 gal	L, P
Dietes grandiflora 'Variegata'	Striped Fortnight Lily	5 gal	L, P
Erigeron karvinskianus	Santa Barbara Daisy	1 gal	L, N, P
Euryops pectinatus 'Munchkin'	Munchkin Golden Shrub Daisy	5 gal	L, P
Euryops pectinatus 'Viridis'	Green Golden Shrub Daisy	5 gal	L, P
Festuca mairei	Atlas Fescue	1 gal	L, N
Galvezia speciosa	Island Snapdragon	5 gal	L, N, P
Galvezia speciosa 'Firecracker'	Firecracker Island Snapdragon	5 gal	L, N, P
Grevillea x 'Noellii'	Noel Grevillea	5 gal	L, P
Juniperus scopulorum 'Medora'	Medora Juniper	15 gal	L, P
Lantana montevidensis	Purple Trailing Lantana	1 gal	L, P
Lantana x 'Chapel Hill Yellow'	Chapel Hill Yellow Lantana	1 gal	L, P
Lomandra longifolia 'Breeze'	Breeze™ Mat Rush	1 gal	L, P
Loropetalum chinense 'Shang-white'	Emerald Snow® Loropetalum	5 gal	L, P

Nandina domestica 'Compacta'
Nandina domestica 'Gulf Stream'
Nandina domestica 'Lemon-Lime'
Pennisetum alopecuroides 'Little
Pennisetum messiacum 'Red Bur
Phormium tenax 'Tiny Tiger'
Phormium tenax 'Toney Tiger'
Phormium x 'Duet'
Phormium x 'Gold Sword'
Pittosporum tobira 'Variegata'
Rhaphiolepis indica 'Ballerina'
Rhaphiolepis indica 'Clara'
Rhaphiolepis indica 'Dancer'
Salvia leucantha 'Santa Barbara'
Santolina virens
Xylosma congestum 'Compacta'

Appendix B: Water Efficient Landscape Worksheet:

EXHIBIT B

ca

Carpinus betulus fastigiata

Cercis occidentalis

Chitalpa tashkentensis

Koelreuteria

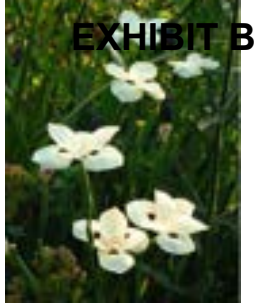
EXHIBIT B

n

Aspidistra elatior

Callistemon viminalis 'Little John'

Coprosma kirkii 'Variegata'



Dietes bicolor

Erigeron karvinskia

ensis

Loropetalum chinensis 'Shang-White'

Nandina domestica 'Compacta'

Pennisetum alop. 'Little Bunny'

Phoriumum x 'Duet'

N AREAS

CONDITIONS OF APPROVAL

Development Agreement Amendment (DAA) 24- 001, Site Plan Design Review Modification (SPDRM) 24-002, Specific Plan Amendment (SPPA) 24-002, and Planned Development (PD) 24-001

Hearing to consider the "Arroyo Vista" residential development Project on approximately 15 acres within the Arroyo Vista Neighborhood. The Project is to allow approximately 86 single family units in the northern portion of the west parcel to be increased to three stories in height and remove a pedestrian bridge that connects the east and west parcel. The project will provide new community amenities, including two pocket parks and financial contribution of $2,000,000 to the Community Benefit Fund and the Social Opportunity Endowment Fund.

Location: Southeast corner of Arroyo Vista and Las Positas Road (APNs: 903-10-46 through 903-10-54)

Recommended by Planning Commission: July 16, 2024

Approved by City Council: _____

A. PROJECT AUTHORIZATION

1. The project shall be in conformance with all City Ordinances, rules, regulations, and policies except as set forth in the Project's Development Agreement Amendment ("DAA") Specific Plan Amendment ("SPPA") (collectively, the "Project Approvals"). The conditions listed below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

2. Approval is limited to conformance of the land uses allowed in Light Intensity Industrial, Open Space, and Urban High Residential (UH-3), in accordance with the Project Approvals. Use of the property shall be limited to those permitted by the Development Code and Arroyo Vista Neighborhood Plan as it exists now and pursuant to the Project Approvals, as the same may be amended in the future.

3. Site Plan Design Review Modification and all other project approvals shall expire 20 years from the effective date of the Development Agreement Amendment 24-001, pursuant to any time extensions in the Development Agreement.

B. PROJECT SPECIFIC CONDITIONS

The applicant shall respond in writing to all conditions contained in this document and its attachments. Responses shall describe how the condition has been met and shall, where applicable, direct the plan checker to the page and/or drawing

detail that demonstrates compliance with the condition. A copy of these responses shall be provided with each set of revised plans.

1. Prior to Final Map/Improvement Plan approval for the area covered by this amendment, applicant shall revise landscape plan to ensure 20 percent of all onsite trees have a 24-inch box size or larger, as approved by the Community Development Department Director.
2. Prior to Final Map/Improvement Plan approval for the area covered by this amendment, applicant shall revise landscape plan to ensure all shrubs shall have a minimum 5-gallon size, as approved by the Community Development Department Director.
3. Project shall conform to all required Mitigation Measures listed in the original IS/MND Addendums covering the Arroyo Vista Neighborhood Project (Attachment 3).
4. Prior to Final Map approval, a Photometrics plan for the pedestrian paths and parking surfaces shall be provided for review and approval by the Director.
5. Prior to Final Map approval, the applicant shall provide plan showing and installing a pedestrian path connecting the pocket park on the west site of the Arroyo Seco Channel trail as approved by the Director. The applicant will be responsible for grading in such a way that does not inhibit the feasibility of this design as the design will be finalized in the Final Map and Improvement Plan stage. The Community Development Director can waive this condition if construction of the pedestrian path becomes infeasible. (Added by Planning Commission: July 16, 2024)
6. Prior to the Final Map approval, the applicant shall design and provide two benches along the 5' path to the west of the Arroyo Seco Channel trail. The Community Development Director can waive this condition of installation of the two benches becomes infeasible. (Added by Planning Commission: July 16, 2024)
7. Prior to the Final Map approval, the applicant shall provide plan that shows the air conditioning units to be screened with wood enclosures that exceed the height of the air conditioning units. In addition, the above ground utilities shall be screened with vegetation that exceeds the height of the above ground utilities.
8. Prior to the Final Map approval, the applicant shall demonstrate on landscape plan how the project complies with the Water Efficient Landscape Ordinance.
9. Prior to the Final Map approval, the plans will show buffered bike lanes on Las Positas Road along the project frontage consistent with the approved 2017 Engineering Considerations.
10. The unit at the corner of Arroyo Vista and Las Positas (lot #1) shall provide enhanced design elements due to the prominence of the unit's location. (Added by Planning Commission: July 16, 2024)

C. GENERAL CONDITIONS OF APPROVAL

1. Development shall conform to the approved plans as shown in Exhibit B-1.

Exhibit B-1 plans shall include but are not limited to subdivision, master landscape, and architectural plans reviewed and approved by the Planning Commission and City Council and amended by the applicant to reflect any changes indicated above in the Project Specific Conditions or required by the City in the approval process. The development impact fees (subject to annual increases) are vested with the Development Agreement.

2. The Community Development Department may approve minor amendments to the permit, provided that the permit is still in substantial conformance with the original approval and all requirements of Development Agreement Amendment 24-001.

3. Approval of the Site Plan Design Review Modification entitlement is not an authorization to commence construction. Building construction, alterations, repairs, sign erection, or occupancy shall not be permitted without prior approval of the Building Division through issuance of any required permits.

4. To the extent permitted by law, the project applicant shall defend, indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorney's fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

D. ENGINEERING DIVISION

1. Development shall conform to the attached Engineering Considerations, dated June 3, 2024 (Attachment 1).

E. BUILDING DIVISION

1. Each project shall conform to CA codes adopted at time of project Building permit submittal.
2. Commercial spaces shall submit separate Tenant Improvement applications than the shell permits based on use.
3. Community pool shall submit separate plans for Alameda County Health approval in addition to City of Livermore approval.

F. FIRE DEPARTMENT

The Fire Prevention Bureau reviews building/civil drawings for conceptual on-site fire mains and fire hydrant locations only. Plan check comments and approval DO NOT include: 1.) Installation of the on-site fire mains and fire hydrants. Specific installation drawings submitted by the licensed underground fire protection contractor shall be submitted to the Fire Prevention Bureau for

approval; and 2.) Backflow prevention or connections to the public water mains. FIRE HAZARDS: The project developer shall keep the site free of fire hazards from the start of lumber construction until the final inspection.

1. FIRE CODE: All construction shall conform to the requirements of the 2022 Livermore Fire Code and local ordinances. All required permits shall be obtained prior to work commencement.

2. SITE SAFETY: Site safety during construction shall be in accordance with Fire Code chapter 33.

3. FIRE SPRINKLERS: Automatic fire sprinklers shall be installed in all occupancies in accordance with the 2022 Livermore Building, Fire and Residential Codes with local amendments and ordinances. EMERGENCY RESPONDER RADIO: Emergency responder radio coverage shall be provided in accordance with section 510 of the Fire Code.

4. FIRE PROTECTION FACILITIES: Prior to any construction framing, the applicant shall provide adequate fire protection facilities, including, but not limited to a water supply and water flow in conformance to the City's Fire Department Standards able to suppress a major fire.

5. WATER FLOW AND CONTROL VALVES: All fire sprinkler system water flow and control valves shall be complete and serviceable prior to final inspection. Prior to the occupancy of a building having a fire alarm system, the Fire Department shall test and witness the operation of the fire alarm system.

6. ELECTRICAL CONDUIT: Electrical conduit shall be provided to each fire protection system control valve including all valve(s) at the water connections. The Livermore-Pleasanton Fire Department requires electronic supervision of all valves for automatic sprinkler systems and fire protection systems.

7. LISTED: All commercial, industrial, and multi-family residential occupancies shall have valve tamper and water flow connected to a listed Central Station Service in accordance with NFPA 72. Fire Department plan check includes specifications, monitoring, installation, and alarm company certificates. Fire alarm control panel and remote annunciation shall be at location(s) approved by the Fire Prevention Bureau. All systems shall be point identified by individual device and annunciated by device type and point.
8. HAZARDOUS MATERIALS: Should any operation or business activity involve the use, storage or handling of hazardous materials, the firm shall be responsible for contacting the Livermore-Pleasanton Fire Department prior to commencing operations. Please contact the Hazardous Materials Coordinator at 925/454-2361.

9. FIRE HYDRANTS: Fire hydrants shall be installed at spacing not greater than 300 feet in industrial and commercial developments. Fire hydrants shall be installed at spacing not greater than 400 feet in residential developments.

10. FIRE LANE MARKING: On-site access ways, turn arounds, and internal drives shall be designated as fire lanes and identified as such by red curb striping and posted with signs at locations approve by the Fire Department. Signs shall be according to State standards and read “No Parking – Fire Lane” and must be shown on the plans. The red curb striping, sign location(s), and sign language shall be included in the building permit submittal for review and approval by the Livermore-Pleasanton Fire Department prior to building permit issuance.

    a. The following schedule for NO PARKING signs shall apply:

Width	*Requirements*
36 feet or greater	No requirements
Between 28 and 36 feet	Post one side
Between 20 and 28 feet	Post both sides
Less than 20 feet	Not permitted
Cul-de-Sac	Not permitted

11. EMERGENCY VEHICLE ACCESS ROADS: Access roads shall have 13 feet, 6 inches unobstructed vertical clearance, 20 feet of unobstructed width (26 feet where occupied building floors exceed 30 feet height), and inside turning radius of 31 feet and outside turning radius of 51 feet. Unobstructed shall mean a clear travel way, excluding parking width, and designed for an emergency vehicle weight of 70,000 pounds under all weather conditions. Unobstructed width shall not include the width of rolled curbs, sidewalks, or non-drivable surfaces. All exterior portions of buildings must be within 200 feet of an access road. Yard and parking area may be able to be located farther than 200 feet from access roads, depending on the specific use. Project specific modifications to require access road widths are provided below:

    1. Alleys D-G (Adora Loop) and Alley H will be 26' wide to provide aerial truck access to these units.
    2. The units on Lots 56-86 will have a modified fire sprinkler system as approved by the Fire Marshal on 3/24/24. The Modified NFPA 13D Sprinkler system will include the following enhancements:
        a. Sprinkler coverage on all porches and patios greater than 4';
        b. Sprinkler coverage in all bathrooms and closets regardless of square footage;
        c. 4 sprinkler hydraulic calculation (NFPA 13D requires up to

2). Calculations to be performed at .05 density consistent with NFPA 13D;

d. Sprinklers throughout attic space above upper floor at 225 sq. ft. spacing.

12. PREMISES IDENTIFICATION: Address numbers shall be installed on the front or primary entrance for all buildings. Minimum building address character size shall be 12-inch high by 1-inch stroke. In all cases address numerals shall be of contrasting background and clearly visible in accordance with the Livermore-Pleasanton Fire Department Premises Identification Standards. This may warrant field verification and adjustments based upon topography, landscaping or other obstructions.

13. FINAL INSPECTION: Prior to request for final inspection, all access roads, on-site access and fire hydrants shall be provided. All fire hydrants shall be accepted, inspected and tested to applicable City Standards.

G. WATER RESOURCES DIVISION

a. Development shall conform to the attached Zone 7 Conditions, dated May 23, 2024 (Attachment 2).

Attachments:

1: Engineering Considerations
2: Water Resources Conditions
3: Arroyo Vista Neighborhood Plan Initial Study Report Mitigation, Monitoring, and Reporting Program

CITY OF LIVERMORE
ENGINEERING CONSIDERATIONS

Date: Jun 3, 2024

LOCATION: **Las Positas Road and Arroyo Vista**

DEVELOPER: **TH Arroyo Vista LLC (Trumark)**

PLANNING REFERRAL #: **SPDRM24-002, DAA23-001**

Note: Specific conditions are shown in large type. *Standard conditions that apply to this project are shown in italic type.*

1. DEFINITIONS:

For the purpose of this agreement, the following words shall have the meanings respectively ascribed to them by this section:

Developer:	*Person(s) or Corporation(s) that will obtain permits for construction*
Improvement Plans:	*Construction drawings for required public and private improvements*
Services:	*Utility lateral, or any portions of a conduit cable or duct, between a utility distribution line and the site it serves*
Project:	*The work to be performed by Developer*

2. SITE PLAN DESIGN REVIEW MODIFICATION

A. The project shall be in conformance with all City Ordinances, rules, regulations, and policies. The conditions listed below are particularly pertinent to this permit and shall not be construed to permit violation of other laws and policies not so listed.

B. Approval or conditional approval of this SPDRM shall not supersede these Engineering Considerations and any applicable City Standards nor limit the City's Engineer's ability to require workable designs on future grading and improvement plans based upon these Engineering considerations and the City's Standard engineering specifications and details.

3. SPECIFIC CONDITIONS:

The Developer shall comply with the following conditions:

A. This Project shall comply with all of the provisions of the following approved entitlements & recorded documents unless otherwise noted in these Engineering Considerations (collectively the "Approved Entitlements"):
   - Vesting Tentative Parcel Map 8379 (SUB16-010)
   - Planned Development (PD16-004)
   - Site Plan Design Review (SPDR16-027)
   - Development Agreement (DA17-002)

B. This Project shall comply with all of the provisions of the Development Agreement Amendment DAA24-001, including providing in-lieu fees for not providing the pedestrian bridge over the Arroyo Seco as outlined in DAA24-001.

C. Final Tract Map 8379 (which has been recorded) shall be revised to include any revisions to easements necessary to comply with these Engineering Considerations and the Amended Development Agreement DAA24-001. This revised Final Map shall be reviewed and approved by City Council prior to the recordation.

D. The alley widths for Adora Loop and H Alley shall be 26'. All other streets shall remain per the Approved Entitlements.

E. Bridge construction over Arroyo Las Positas and related appurtenances and easements do not apply per Amended Development Agreement DAA24-001.

F. The existing Subdivision Improvement Agreement and Security Bond shall be amended (and recorded) to include any revisions necessary to comply with these Engineering Considerations and the Amended Development Agreement DAA24-001.

G. The existing Stormwater Operations and Maintenance Agreement shall be amended (and recorded) to include any revisions necessary to comply with these Engineering Considerations and the Amended Development Agreement DAA24-001.

H. Updated CC&R's shall be reviewed and approved by the City prior to the recordation of the amended Final Map.

I. Developer shall remove references to the Zone 7 Aerial Easement and Service Easements related to the bridge as necessary to comply with these Engineering Considerations and the Amended Development Agreement DAA24-001. Developer shall also pay for any fees associated with quitclaiming the Zone 7 Aerial Easement.

JW:FL:MAP

May 23, 2024

Kaitlyn Harrison, Assistant Planner
Planning Division
City of Livermore
1052 South Livermore Avenue
Livermore, CA 94550

Subject: Arroyo Vista (Pell) SFD Revision, SUB24-002
Southeast Las Positas Road and Arroyo Vista Intersection, Livermore, CA
Zone 7 Referral No. 23-034C Rev

Dear Kaitlyn Harrison,

In response to your referral letter regarding the subject project, we offer the following comments:

Water Supply Facilities

There are no existing nor planned Zone 7 water supply facilities at this project site.

The scope of this review by Zone 7 does not include an analysis of potable water supply availability or source of sufficient water supply for the proposed project; the project proponent should coordinate with the appropriate water service provider (City of Livermore, City of Pleasanton, Dublin San Ramon Services District, or California Water Service Company) to identify availability and source of potable water supply for this development. If the proposed project includes the installation of water supply wells, please contact Zone 7 (wellpermits@zone7water.com) for more information.

Groundwater Management

Wells - Our records indicate that there is one well (3S2E03Q003) in the project area (Figure 1) that must be protected or decommissioned. Please immediately notify Zone 7 if any other wells exist in the project area. All well locations should be field verified and noted on the plans.

Figure 1 also shows the approximate location of one destroyed well in the project area. No permit or notification is required for this well, however, please note that this well has likely

been backfilled with cement and may be encountered during future grading activities. For additional information please email wellpermits@zone7water.com.

Also, please be advised that a Zone 7 drilling permit is needed for any water well or soil boring work that may be planned for this project. The drilling permit application and permit fee schedule can be downloaded from our website: https://www.zone7water.com/post/well-drilling-and-soil-boring-permits. For additional information please email wellpermits@zone7water.com.

It should be noted that the subject property (or project) is located within the basin area under sustainable groundwater management by Zone 7 as per the Alternative Groundwater Sustainability Plan for the Livermore Valley Groundwater Basin and is subject to all relevant sustainable groundwater management actions.

Water-wise Landscaping - Zone 7 encourages the use of sustainable, climate-appropriate, and drought-tolerant plants, trees and grasses that thrive in the Tri-Valley area. Find more information at: http://www.trivalleywaterwise.com.

Flood Protection

Zone 7 has an existing Flood Protection facility, Arroyo Seco (Line P) at this location.
The developer had plans to construct a pedestrian bridge over the channel, which would have required an aerial easement. An aerial easement had been prepared for the City of Livermore and approved by the Alameda County Board of Supervisors in January 2024. The developer has applied for an amendment with the City of Livermore to remove the bridge from the project's scope of work. The developer would still be providing trail improvements on the west bank of the channel to meet the City's requirements. The City had notified Zone 7 of the proposed bridge removal on May 21, 2024, and Zone 7 subsequently, is revising its comments to Referral 23-034C. Trail improvements and maintenance of the trail would still fall under the City's responsibility under the existing Recreational Use License Agreement between Zone 7 and the City.

Developments creating new impervious areas within the Livermore-Amador Valley are subject to the assessment of the Development Impact Fee for Flood Protection and Storm Water Drainage. These fees are collected for Zone 7 by the local governing agency: 1) upon approval of the final map for public improvements creating new impervious areas and/or 2) upon issuance of a building or use permit required for site improvements creating new impervious areas. Fees are dependent on whether post-project impervious area conditions are greater than pre-project conditions.

If you have any questions regarding comments from Flood Protection, please contact Jeff Tang at (925) 454-5075. If you have floodplain-related questions, such as whether the project is located within a natural floodplain, please contact the Floodplain manager at the City of Livermore.

In an effort to ensure that mailed notices and referrals from your agency make their way to the appropriate staff at Zone 7 in a timely manner, we are requesting that your databases/mailing lists are updated to reflect the following points of contact, specifically for routine development referrals and for CEQA / environmental reviews.

For CEQA / environmental review:	For development review / referral:
Zone 7 Water Agency **Attn: CEQA Review / Elke Rank** 100 North Canyons Parkway Livermore, CA 94551 ceqa@zone7water.com Staff contact: Elke Rank, erank@zone7water.com	Zone 7 Water Agency **Attn: Dev Referral / Junming Li** 100 North Canyons Parkway Livermore, CA 94551 referrals@zone7water.com Staff contact: Junming Li, jli@zone7water.com

If you have any questions, please do not hesitate to contact the person identified per section comments or me at (925) 454-5017.

Sincerely,

Junming Li
Assistant Engineer
Water Supply Engineering

Attachments:
Attachment 1 – Groundwater Maps, Figures 1

cc: Ken Minn, Water Resources Manager
Amanda Karchefski, akarchefski@trumarkco.com

EXHIBIT C

Project Title: Neighborhood Plan NP 05-001;
Project Name: Arroyo Vista Neighborhood Plan (Pell Site)

SUMMARY OF IMPACT	SUMMARY OF MITIGATION MEASURE	AGENCY	TIMING
Transportation 6.b.: Potential hazards to safety from design features (e.g. sharp curves or dangerous intersections). The proposed project could potentially pose hazards to safety from site design features (e.g. sharp curves or dangerous intersections) by allowing on-street parking along Las Positas Road in areas near project driveway intersections. Implementation of Traffic Mitigation Measure 6.b.1 will reduce these potential impacts to less than significant.	Traffic Mitigation Measure 6.b.1: To provide adequate sight distance, keep areas near project driveways free of visually obstructive landscaping; and limit the location of public on-street parking on Las Positas Road as follows: ▪ Project Driveway #5 on Las Positas Road/East Side of Arroyo Seco Channel – Remove on-street parking within 360 feet east of the driveway to maintain adequate sight distance; ▪ Project Driveway #6 on south end of Bennett Drive /East Side of Arroyo Seco Channel – Remove on-street parking within 250 feet of the driveway to maintain adequate sight distance.	CDD-PD	TM - With review and prior to approval of Tentative Tract Map
Biology 7.a. and c.: the proposed project could potentially endanger certain rare plant species, nesting raptors and migratory birds if they are found on or adjacent to the site. It could also potentially impact wetland habitat unless mitigated. Mitigation Measures 7.a.1 – 3 and 7.c.1 will reduce these potential impacts to a less than significant level.	Mitigation Measure 7.a.1 Site surveys should be conducted by a qualified biologist during the appropriate time of year prior to any construction on the site to conclusively dismiss the occurrence of Big-Scale Balsam-Root, Congdon's Tarplant, Hairless Popcornflower, and Caper-fruited Tropidocarpum.	CDD - PD, CDFG	BP

Responsible Agency/Department/Party

CDD –PD Planning Division
CDD-ENG Engineering Division
POL Police Department
FD Fire Department
B Building Department
CDFG California Department of Fish and Game
USFWS United States Fish and Wildlife Service
LARPD Livermore Area Recreation and Park District
LVJUSD Livermore Valley Joint Unified School District
Zone 7 Alameda County Flood Control District – Zone 7

Timing of Monitoring

TM Prior to approval of tentative tract maps
FM Prior to approval of final tract maps
BP Prior to approval of building and/or grading plans
C During Construction
PC Post construction/on-going

ATTACHMENT #1

	Mitigation Measure 7.a.2 (Nesting Raptors) - In order to avoid potential impacts to nesting raptors, a pre-construction nesting raptor survey shall be conducted by a qualified raptor biologist 30 days prior to commencing any construction work during the breeding season of tree nesting raptors (between March 15 and August 31). The raptor nesting survey shall examine trees and shrubs on and adjacent to the project site. Nesting surveys shall be conducted in the spring the year prior to construction of the project and again 30 days prior to tree removal and/or ground breaking at the project site. If nesting raptors are identified during the survey, a 300-foot non-disturbance radius around the nest tree must be staked with orange construction fencing. If the nest site is on adjacent property, then the portion of the 300-foot buffer that occurs on the project site only should be fenced with orange construction fencing. The size of the non-disturbance buffer may be reduced in size by the recommendation of the qualified raptor biologist. Instances where the buffer could be reduced in size would be if the raptors were well acclimated to disturbance and/or if there were physical barriers between the nest site and the construction project that would ameliorate disturbance to the nesting raptors. No construction or earth moving activity should occur within the non-disturbance buffer until it is determined by the biologist that the young have		

Responsible Agency/Department/Party

CDD –PD Planning Division
CDD-ENG Engineering Division
POL Police Department
FD Fire Department
B Building Department

CDFG California Department of Fish and Game
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	fledged and have attained sufficient flight skills to avoid project construction zones. Once the raptors have completed the nesting cycle (the young have reached independence of the nest), no further regard for the nest is required. Mitigation Measure 7.a.3 (Burrowing Owl) – In order to avoid potential impacts to Burrowing Owls, a nesting season survey shall be conducted prior to commencement of any construction activities on the site. The survey should follow the survey methodology prescribed in California Department of Fish and Game's (CDFG's) *Staff Report on Burrowing Owl Mitigation* (CDFG 1995). This Staff Report serves as official CDFG Burrowing Owl policy. If no owls are found during the survey, no further action is necessary. If Burrowing Owls are observed during the survey, a fenced 75 meter (276-foot) buffer will be required between the nest(s) or active burrow(s) and any earth-moving activity or other disturbance. This buffer could be removed once it is determined by a qualified raptor biologist that the young have fledged (left the nest). If Burrowing Owls are found on the project site, a qualified raptor biologist would need to delineate the extent of Burrowing Owl habitat on the site and a Mitigation Plan and Mitigation Agreement would need to be prepared pursuant to CDFG		

Responsible Agency/Department/Party

CDD –PD Planning Division
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PC Post construction/on-going

	requirements and submitted to CDFG for their approval. The Mitigation Plan must identify the amount of mitigation land to be set aside, the mitigation site and any activities necessary to enhance the mitigation site, including the construction of artificial burrows. The Plan should also include a description of monitoring and management methods proposed at the mitigation site. A copy of the Mitigation Plan and Agreement must be provided to the lead agency prior to the lead agency issuing a grading permit for the proposed project. Mitigation Measure 7.a.4 (Migratory Birds) – In order to avoid impacts to common and special-status nesting birds, a pre-construction nesting survey shall be conducted by a qualified ornithologist 30 days prior to commencing any construction work during the breeding season (between March 15 and August 31). If special-status birds, such as Loggerhead Shrike, are identified nesting on or adjacent to the project site, a 100-foot non-disturbance radius around nest must be staked with orange construction fencing. If the nest site is on adjacent property, then the portion of the 100-foot buffer that occurs on the project site only should be fenced with orange construction fencing. The Ornithologist can modify the size of the buffer based upon site conditions and the bird's apparent acclimation to human activities. No construction or earth-moving activity shall occur within this staked buffer until it		

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C During Construction
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	is determined by the Ornithologist that the young have fledged (left the nest) and have attained sufficient flight skills to avoid project construction zones. If common (non special-status) passerine birds are identified nesting in any trees proposed for removal, tree removal would have to be postponed until it is determined by a qualified ornithologist that the young have fledged and have attained sufficient flight skills to leave the project site area. Mitigation Measure 7.c.1: ▪ ~~Prior to finalizing bridge designs and before~~ any construction activities are initiated, the project developer will acquire a Streambed Alteration Agreement from the CDFG pursuant to Section 1602 of the Fish and Game Code; ▪ ~~All new bridges will be free span and will~~ avoid placement of permanent fill within the banks of the Arroyo Seco channel; ▪ ~~Before any construction activities are initiated~~, a full erosion control plan shall be developed and implemented with bridge construction; ▪ No equipment shall be allowed in the channel; ▪ ~~Any bridge abutment walls shall be~~ constructed in dry ground back from the existing banks of the channel; ▪ Barren soils that remain adjacent to the		

Responsible Agency/Department/Party

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	channel upon completion of the bridge projects shall be hydroseeded with an erosion control mix containing a complement seed mix of California native plant species.		
Noise: the proposed project could potentially expose people to greater or more severe noise levels unless mitigated. Noise Mitigation Measure 10.b. (found on page 21) will reduce these impacts to a less than significant level by requiring a detailed noise study prior to construction that provides construction methods to attenuate noise levels to a less than significant level.	Mitigation 10.b.1: At the time a specific development proposal/entitlement application is received for the project site, additional noise analysis that addresses projected noise levels through 2025 shall be prepared by a professional acoustical engineer. Consistent with General Plan policy N1.2, P2, the analysis shall include design mitigation measures and construction methods, including door and window STC ratings, to sound rate the exterior facades of buildings and attenuate noise levels to acceptable levels.	CDD - PD	TM - With review and prior to approval of Tentative Tract Map

Responsible Agency/Department/Party

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CDD-ENG Engineering Division
POL Police Department
FD Fire Department
B Building Department

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IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE ADOPTING PLANNED DEVELOPMENT AMENDMENT – RESIDENTIAL (PD) 24-001 FOR THE ARROYO VISTA NEIGHBORHOOD DEVELOPMENT, TO AMEND THE BRIDGE REQUIREMENT AND ALLOW FOR SINGLE-FAMILY DEVELOPMENT IN LIVERMORE PLANNED DEVELOPMENT 16-004

On July 24, 2017, the City of Livermore ("City") approved an application from Summerhill LLC to develop the approximately 29-acre vacant parcel located at the southeast corner of the Arroyo Vista and Las Positas Road intersection with a residential development project.

On January 25, 2024, the City received an application from TH Arroyo Vista LLC ("Applicant") for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The Project would modify the 2017 approval located southeast of the Las Positas and Arroyo Vista Road intersection. The Project includes modifying the design and height of the 86 single family residential units, adding approximately 0.5 acres of pocket parks in lieu of a pedestrian bridge, and making a financial contribution of $2 million dollars.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES FIND AND ORDAIN AS FOLLOWS:

Section 1. *Recommendation*. The Planning Commission held a duly noticed public hearing on July 16, 2024, to consider Planned Development 24-001 to amend PD 16-004 and recommended that the City Council approve the Planned Development in Planning Commission Resolution No. 25-24, attached hereto as Exhibit A.

Section 2. *Environmental*. The City Council considered the environmental review and adopted the 2024 Arroyo Vista Neighborhood Plan Addendum to the Initial Study/Mitigated Negative Declaration [IS/MND] (State Clearinghouse No. 2007052028), as amended by the 2017 addendum, or the Arroyo Vista Neighborhood Project Addendum by Resolution _____.

Section 3. *Consistency.* The ordinance is consistent with the Livermore General Plan, any applicable specific plan, and the Livermore Development Code.

Section 4. *Adoption.* The City Council of the City of Livermore has considered the findings made in Planning Commission Resolution No. 25-24, attached hereto as Exhibit A, and hereby adopts the same findings by this reference and incorporates them as part of this resolution, and based upon the City Council's own independent review and considerations, the City Council hereby approves the Planned Development Residential zoning.

Section 5. The zoning standards for this district shall be those set forth in the PD 24-001 Standards that amend PD 16-004, attached hereto as Exhibit B.

Section 6. *Publication and Effective Date*. This ordinance or a comprehensive summary thereof shall be published once in a newspaper of general circulation of the City of Livermore within 15 days after its adoption and shall take effect and be in force thirty days from and after its adoption.

Section 7. *Filing*. The Planning Manager is directed to file a Notice of Determination for the Arroyo Vista Addendum with the Alameda County Clerk.

Section 8. *Documents*. The documents that constitute the record of proceedings upon which this decision is based on can be found in the City Clerk's Office, 1052 S. Livermore Avenue, Livermore, California.

Section 9. *Severability*. If any part of this ordinance is declared unconstitutional or invalid by a court, such unconstitutionality or invalidity shall not affect any remaining parts.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The ordinance was adopted at the regular meeting of the City Council held on _____, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor, City of Livermore

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirrasou
Katherine Mirassou
Deputy City Attorney

Exhibit A - Planning Commission Resolution No. 25-24
Exhibit B – Planned Development 24-001 Standards

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE SITE PLAN DESIGN REVIEW MODIFICATION (SPDRM) 24-002, DEVELOPMENT AGREEMENT AMENDMENT (DAA) 24-001, PLANNED DEVELOPMENT REZONING (PD) 24-001, AND SPECIFIC PLAN AMENDMENT (SPPA) 24-002 FOR THE ARROYO VISTA NEIGHBORHOOD DEVELOPMENT

On October 11, 2017, the City received an application from LLC SummerHill to develop the approximately 29-acre vacant parcel located at the southeast corner of Arroyo Vista and Las Positas Road intersection with a residential development project.

On January 25, 2024, the City received an amended application from the Applicant for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The Project would develop vacant land located southeast of Las Positas and Arroyo Vista Road intersection, implementing the Arroyo Vista Neighborhood Plan ("Project"). The Project includes 86 residential units, amenity space, two approximately 1.5-acre neighborhood parks with an additional approximately 0.5 acres of pocket parks street improvements, street trees, and utility infrastructure. The residential units consist of for sale detached single-family homes. The Project also includes a Development Agreement between the City and Developer, and Neighborhood Plan amendments.

On July 16, 2024, the Planning Commission held a duly noticed public hearing to consider the Project, staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the Planning Commission reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore has considered the Record Evidence and recommends the City Council adopt a resolution adopting an Addendum to the 2007 Arroyo Vista Neighborhood Plan, as amended in 2017 (#2007052028), consistent with the requirements of the California Environmental Quality Act ("CEQA").

BE IT FURTHER RESOLVED, with respect to Site Plan Design Review Modification 24-002, the Planning Commission finds based upon the information presented that:

1. The proposed development will be permitted within the subject zone.

Findings: The Project Site is zoned Planned Development (PD) 16-004, which permits

residential uses. The Project still proposes single-family development consistent with the PD with the PD amendments to the single-family homes as described below, a variety of open space areas and amenities, including two neighborhood parks, paseos, two pocket parks, and a public trail. All of the Project's proposed uses are permitted by the Project Site's applicable zoning designations.

2. The proposed development will be designed such that:

   a. The project will not be detrimental to the public health, safety, or general welfare, and not detrimental to adjacent property;
   b. Architectural design and functional plan of the structure(s) and related improvements are of reasonable aesthetic quality and compatible with adjacent developments;
   c. Structure(s) and related improvements are suitable for the proposed use of the property and provide adequate consideration of the existing and contemplated uses of land and orderly development in the general area of the subject site; and
   d. The project's site plan and design is consistent with the City's Design Standards and Guidelines.

Findings:

The proposed Project will not be detrimental to the commercial and light industrial uses of adjacent properties. The Project provides adequate emergency vehicle access throughout the site and necessary ariel access for fire access on units located in alleyways that do not allow for truck turnaround. Water and sewer service will be provided to all units and stormwater will be appropriately managed on site. The site layout is suitable for trash pickup and adequate space will be provided in each residential unit garage buildings for all waste streams.

The Project proposes a variety of architectural styles, emphasizing traditional designs and building materials. The design will feature traditional architectural styles such as Craftsman, Prairie and Ranch.

The proposed traditional architectural styles incorporate design features and materials that will be compatible with existing and future developments in the surrounding areas. Additionally, the Project utilizes varied building materials, neutral colors, and varied building facades to reduce massing, distinguish each building, and provide a high degree of visual interest, variation, and articulation. The proposed color palette and design are compatible with the existing neutral and earth tones used in neighboring industrial and commercial developments.

The Project site is vacant with some preliminary grading approved. The proposed structures and improvements to be developed would be suitable for the Project's proposed mix of uses. The structures and improvements would be compatible with the industrial uses to the north and south of the Project site and commercial uses to west of the Project site across Las Positas Road and the business park uses to the east of the Project site across Bennett Drive. Additionally, the arrangement of structures and

improvements provides for appropriately scaled and orderly development and circulation throughout the Project Site.

The Project proposes a variety of architectural styles that vary by unit throughout the architectural site plan, emphasizing modern designs and building materials that are consistent with the Neighborhood Plan and the City's design standards and guidelines. The single-family homes provide a mix of board and batten, brick, gable trim, and decorative corbels.

The building's fenestration promotes order and variety. Massing is reduced through wall plane changes and belly bands. Additionally, the buildings use brick, stone, and other materials to provide visual interest.

The Project is also conditioned to conform with the Mitigation, Monitoring, and Reporting Program (MMRP) adopted with the certified 2007 Initial Study/Mitigated Negative Declaration, as amended in 2017. The Project is not detrimental to adjacent properties and considers adjacent uses in the general area. All project frontages contain substantial landscaping and trees to appropriately screen the proposed buildings. The Project meets applicable parking standards. The residential use promotes synergy with surrounding uses, locating residents close to job centers, commercial uses, and will not produce any dust, odor, noise, or glare during regular operations. The structures are suitable for the site and the site plan is consistent with the City's Design Standards and Guidelines.

3. The proposed development is designed to include the following criteria, as applicable:

   a. Compliance with Chapter 9.07 of the Development Code (Site Plan and Design Review), Municipal Code Title 15 (Buildings and Construction), and any other applicable City regulations and policies;
   b. Efficient site layout and design;
   c. Compatible and appropriate in scale to neighboring properties and developments.
   d. Efficient and safe public access (both pedestrian and vehicular) and parking;
   e. Appropriate and harmonious arrangement and relationship of proposed structures and signs to one another and to other development in the vicinity, based on good standards of design;
   f. Appropriate relationship to land use and development of adjacent properties, including topographic and other physical characteristics of the land;
   g. Proper site utilization and the establishment of a physical and architectural relationship to existing and proposed structures on the site;
   h. Compatible architectural style with the character of the surrounding area, both to avoid repetition of identical design where not desired, and to ensure compatibility in design where desired;
   i. Harmonious relationship with existing and proposed developments and the avoidance of both excessive variety and monotonous repetition;
   j. Compatible in color, material, and composition of the exterior elevations to neighboring visible structures;
   k. Appropriate exterior lighting which provides for public safety and is not of a nature

that will constitute a hazard or nuisance to adjacent properties;

l. Compatible in scale and aesthetic treatment of proposed structures with public areas;
m. Appropriate open space and use of water efficient landscaping; and
n. Consistent with the General Plan and any applicable Specific Plan.

Findings:

The proposed residential development is compliant with the Project site's zoning and would comply with all building code requirements and any additional applicable City regulations pertaining to the development and operation of the Project.

The design, location, size, and operating characteristics of the Project makes the Project Site suitable for the type, density, and intensity of use being proposed. Non- residential spaces such as the pocket parks, paseos, and walking trail, will provide residents and guests with areas for leisure, exercise, and gathering consistent with the intent of the zoning to provide recreational uses for residents.

The Project is of compatible and appropriate scale to neighboring properties and development. Directly adjacent to the property to the east is a business park. North of the Project Site across Arroyo Vista is an existing commercial development of similar scale. East of the Project Site across the Arroyo Seco Channel is vacant land that will be developed with the remaining portions of the 2017 approval, which also features a variety of residential unit mixes and amenities. Accordingly, the Project would be compatible with existing neighboring developments.

A street network has been approved with the 2017 approval and the street network proposed is consistent with that design. Vehicular access would be provided via two access points. One point of vehicular ingress and egress would be located along Las Positas Road, and one point of vehicular ingress and egress would be located along Arroyo Vista. The project includes one new public street and several new private alleys that would be internal to the development, consistent with the 2017 approval. Five pedestrian pathways are proposed throughout the Project Site to maximize connectivity and accessibility for pedestrians.

The Project Site's proximity to major roadways and highways and the internal roadways within the Project provide sufficient public and emergency vehicle access. The Project would provide 273 parking spaces within private garages, guest parking spaces and public stalls. A bus stop would be located along Las Positas Road, consistent with the 2017 approval. Accordingly, the Project would provide efficient and safe public access.

The homes are strategically arranged and designed to be visually appealing, functional, and to facilitate pedestrian and vehicular traffic throughout the Project site by providing pedestrian entries in between homes and utilizing loop streets for vehicular traffic.

The adjacent property to the east consists of similar, mostly flat, topographic conditions. The proposed land use and development would be compatible with adjacent properties. The residential development would be carefully configured to connect with existing city streets and proposed internal streets, allowing for efficient circulation and access. Additionally, the Project would feature a pedestrian connection to the walking trail along the Arroyo Seco Channel.

The Project site does not contain any existing structures. The Project's configuration is harmonious with neighboring developments, with a consistent density throughout the site and special corner treatments to reduce massing and increase interest.

The proposed residential units would be properly configured with respect to existing Project Site conditions. There is 1 product type with 3 different floor plans. The homes will feature traditional architectural styles. The combination of architectural styles creates visual interest and variety, consistent with the Neighborhood Plan. Additionally, wrapped porches have been used at corner units to reduce massing and provide space activation.

The Project is designed such that it will be well integrated with the adjacent Industrial and Commercial development. Features like a walking trail provides connectivity to both the Industrial and Commercial. The Project features a variety of unit mixes and types and community open space, consistent with the Neighborhood Plan. The architectural styles and color palette is compatible with the natural colors used in neighboring developments, avoiding excessive variety. At the same time, the Project maintains its own unique character that creates neighborhood identity and incorporates residential uses into.

The composition of buildings and exterior elevations are compatible with neighboring industrial and commercial uses. The proposed modern and American architectural styles incorporate design features and materials that distinguish the Project from surrounding developments, while complementing other styles within the Neighborhood Plan and surrounding areas. The proposed color palette is compatible with existing natural tones used in neighboring residential developments. The proposed materials are appropriate, standard materials like those used in the surrounding product types from the Neighborhood Plan.

The Project provides appropriate exterior lighting that promotes public safety and is not of the nature that will constitute a hazard or nuisance to adjacent properties. Streetlights, consistent with City standards, are proposed throughout the Project's internal roads to provide internal lighting for pedestrian and vehicular travel. Pedestrian-scale lighting, in the form of bollard lighting, is concentrated primarily along paseos and pedestrian paths, with additional lighting at the entrance of the pedestrian path connecting from the eastern corner connecting Las Positas Road to the site, providing a safe and walkable connection from the eastern parcel to the western parcel. Roadway lights are proposed along Arroyo Vista and Las Positas Road. All lighting would all comply with the City's lighting standards and will be down shielded.

The Project proposes to provide 130, 616 square feet of open space. The Project would feature water-efficient landscaping throughout, resulting in 179,870 square feet of water efficient landscaping. The Estimated Total Water Use would not surpass the Maximum Allowed Water Allowance. The Project would not utilize recycled water due to a lack of connection to recycled water in the site area.

The Project is consistent with the General Plan in that the Project is located so as to create a consolidated pattern of urbanization, maximizing the use of existing public services and facilities (Objective LU-1.1); including the 2017 approval, it creates neighborhoods that include a range of housing types to meet the needs of all residents (Objective LU-1.2); it create neighborhoods near transit that include a mix of uses and a range of housing types to meet the needs of all residents (Objective LU-3.1). It maintains and enhances Livermore's urban design quality and encourage high quality design in all new development and redevelopment (Objective CC-2.1)It encourages and provides greater support for infill and higher density development in order to reduce Greenhouse Gas (GHG) emissions associated with vehicle travel (Objective CLI-1.2); it supports measures that encourage alternative modes of transportation in order to reduce emissions associated with vehicle travel (Objective CLI-1.3); it enhances existing water efficiency and conservation measures in order to reduce energy and GHGs associated with water use (Objective CLI-1.4); and, it expands the number of trees in Livermore in order to provide a larger carbon sink or area containing natural sources that retain more carbon than what those sources emit (Objective CLI- 1.6).

The Neighborhood Plan Goals and Policies are outlined under Site Plan in the Street Pattern, Access and Internal Circulation, Traffic, Parking, Trails, Pedestrian, and Bicycle Facilities, Open Space and Parks, Lot Layout, and Development Agreement Amendment, Site Plan and Design Review, and Neighborhood Design; these sections describe consistency with the Neighborhood Plan goals and policies.

BE IT FURTHER RESOLVED, with respect to Development Agreement Amendment 24-002, the Planning Commission finds based upon the information presented that:

1. The Development Agreement provides benefit to the City.

Findings: The Development Agreement Amendment will facilitate the development of the proposed Arroyo Vista Neighborhood development project (Project), which provide substantial benefits to the City.

This Project will also serve the best interests, and the public health, safety, and welfare of the residents of the City through: the provision of substantial public revenue in the form of an in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund and increased real property and sales taxes; the provision of land uses that are compatible with the physical nature of the Property and the surrounding area; a new community that provides an additional customer base to the surrounding commercial businesses; new trail and pocket parks that bolster

walkability and connectivity; More information regarding each City benefit is described below:

Alternative Transportation Infrastructure

The Agreement secures a walking trail that connects to private parks, providing greater connectivity and destinations for pedestrians and bicyclists. Walkability is a tenant of the Neighborhood Plan, and these amenities help to support the goals of the plan. Additionally, the build out of the trail aid in Active Transportation Plan goals as the trail along the Arroyo Seco Channel would eventually connect to the Iron Horse Tail, once completed by the City and other public and private partners.

Financial Contributions

The Agreement secures an additional $2,000,000 in public funding for the City's Community Benefit Fund and the Social Opportunity Endowment Fund.

2. The Development Agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable Specific Plan, and this Development Code.

Findings: The Project would not change the General Plan land use designation of Light Intensity Industrial (LII) and Urban High Density Residential (UH-3) and Arroyo Vista Neighborhood Plan; and would comply with the General Plan and Neighborhood Plans purpose, intent, goals, policies, and program. The Project is designed to develop a vibrant, safe, and walkable neighborhood with a range of architectural styles open space and recreational amenities, and citywide goals for and alternative transportation.

The Project would be consistent with the regulations and provisions of the Neighborhood Plan, inclusive of the proposed Specific Plan Amendment to remove the pedestrian bridge. The project proposes to remove the pedestrian bridge and provide two pocket parks in place of the bridge landings to meet the goals of the Neighborhood Plan by providing additional public space that contributes to the goals of recreational activities and walkability. In addition, the Project would contribute $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund to support community and housing needs.

Further, the Project ensures that its proposed land uses are compatible with existing neighboring industrial and commercial uses and transportation infrastructure by minimizing conflicts between adjacent land uses with respect to scale, safety, noise, privacy, transportation, and other potential nuisances and hazards. The Project proposes an emphasis on traditional architecture with traditional design elements and articulated facades, multiple architectural styles while providing cohesive design and site plan layout, and multiple material types, consistent with applicable General Plan and Neighborhood Plan goals and policies.

3. The Development Agreement Amendment complies with the requirements of Government Code Sections 65864 through 65869.5.

Findings: The Development Agreement Amendment between the City and the Developer regulates development of the Project site (Project Site) with the Project. Pursuant to the applicable requirements of the California Government Code governing development agreements, the Development Agreement Amendment specifies the duration of the agreement, the amount and timing of the payments for the in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund, and the number of as well as the location of the pocket parks, among other terms and applicable requirements for California development agreements. Review, approval, and recordation of the Development Agreement Amendment will furthermore be conducted in accordance with the provisions of Government Code sections 65864 through 65869.5.

Government Code Section 65867.5 requires that, if a Development Agreement includes a subdivision, that the Tentative Map complies with Government Code Section 66473.7, which mandates that sufficient water supply be made available for new subdivisions. The Project does not include a Tentative Map. Therefore, the Project complies with Government Code Section 65867.5.

BE IT FURTHER RESOLVED, with respect to Development Code Amendment (DCA), known as Planned Development (PD)24-002 throughout this document, the Planning Commission finds based upon the information presented that:

1. The proposed amendment is consistent with the General Plan and any applicable Specific Plan.

Findings: The Project proposes PD24-002 to: 1) Enable the approval of the Project's proposed increase of allowable building height to 45 feet and 3 stories high; and 2) Replace the existing Neighborhood Plan's requirement to provide a pedestrian bridge over the Arroyo Seco Channel. Each component of the Amendment is consistent with the General Plan and Arroyo Vista Neighborhood Plan, as follows:

Consistency with General Plan Housing and Open Space Element

The proposed Inclusionary Ordinance amendments are consistent with the following General Plan Housing Element policies:

- Policy 1.2: Facilitate the development of a range of housing types through area planning efforts.
- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.

The Arroyo Vista Neighborhood Plan was developed in 2007 and the original entitlement was approved in 2017. The proposed amendments facilitate the developer to provide a range of housing types, including the 2017 approval, by adjusting the

number of stories to meet the housing needs and market of 2024. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The bridge became infeasible due to liability and legal and long-term maintenance issues with Zone 7 and the City and required a zoning amendment. Consistent with the Neighborhood Plan, the Project is providing two neighborhood parks in addition to the two pocket parks proposed in this amendment.

Consistency with Light Intensity Industrial Urban High

Residential General Plan Designation. The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, and walkable neighborhood that includes amenities for residents; ensure new development is compatible with existing development and community character The proposed amendments would facilitate the proposed Project, which will provide housing choices with a variety of architecture in an area with accessible commercial, services, and open space.

Consistency with Arroyo Vista Neighborhood Plan

The proposed Inclusionary Ordinance Amendments are consistent with the following Specific Plan Goals:

- 4.1.3.3 The maximum allowable height for buildings in the Neighborhood is 45 feet. This maximum height is allowed on two and one-half, and three-story buildings only.
- 2.6(2) Usable common open space areas including paseos.

The proposed Amendments would allow for more flexibility in building heights and number of stories, consistent with the Neighborhood Plan that allows for building heights of to 45 feet on 3 story products. The Project is proposing building heights of up to 45 feet on the single-family homes. It allows the developer to meet the market needs of today. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The pocket parks provide additional open space that surpasses the standard requirement of a minimum of two neighborhood parks on either side of the development. The 2017 approval will still be providing the two neighborhood parks in addition to the two pocket parks. The proposed changes align with the Arroyo Vista Neighborhood Plan.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

   Findings: The amendment of 45 feet and 3 stories high is consistent with the surrounding character. The 2017 approval provides multi-family, flats, and townhome product types that are 3 story buildings. Further, the single-family homes provide reduced massing and greater visual relief than the multi-family, flats, and townhome product as they are detached. The number of proposed units in consistent with the

2017 approval which was analyzed traffic, emergency, and public services. In addition, the removal of the pedestrian bridge provides lower impacts on the environment. The Project is proposing pocket parks in place of the pedestrian bridge landings to contribute additional open space. To supplement the loss of the bridge, the Project will be providing bollard lighting and a pedestrian pathway at the south-western corner of the eastern parcel to bolster connections for pedestrians from the eastern parcel to the western parcel along Las Positas Road. The Project would still provide utilities and services to all new residents and would be required to protect the environment. Therefore, the proposed Amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

Findings: The proposed amendments do not affect any other sections of the Development Code. Therefore, both changes will not conflict with any other provision of the Development Code.

BE IT FURTHER RESOLVED, with respect to Specific Plan Amendment (SPPA) 24- 002, the Planning Commission finds based upon the information presented that:

1. A Specific Plan may only be amended if first found consistent with the General Plan in compliance with Government Code Section 65454.

Findings: The Project proposes a Neighborhood Plan Amendment to: 1) Remove the pedestrian bridge requirement from the Arroyo Vista Neighborhood Plan. The pedestrian bridge became infeasible due to liability, legal and long-term maintenance issues with Zone 7 and the City. In place of the pedestrian bridge landings, the Project will be providing two pocket parks; 2) Redline the conceptual plans and figures to show the removal of the pedestrian bridge. Each component of the Amendment is consistent with the General Plan, as follows:

Consistency with Light Intensity Industrial and Urban High Residential (UH-3)

The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, walkable neighborhood that includes accessible commercial, services, and open space for residents; ensure new development is compatible with existing development and community character. The proposed amendments would facilitate the proposed Project. The Project is consistent with the land use designation and implements the General Plan goals for the Arroyo Vista Neighborhood. For example, the Project would create a new vibrant neighborhood, a range of amenities, including two neighborhood parks (consistent with the 2017 approval), paseos, a private community pool, and pocket parks. The Project is also compatible with surrounding development since the building heights are consistent with the building heights of the surrounding products from the 2017 approval, and the buildings are designed with

traditional architectural features common in Livermore, like brick, deep eave overhangs and spacious porches.

Additionally, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks.

Consistency with Open Space Element

More specifically, the proposed removal of the pedestrian bridge amendment is consistent with the following General Plan Land Use Element policies:

- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.
- Recreational access to the open space surrounding the City shall be encouraged to the extent that it is compatible with provisions of the Land Use Element.

In addition, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks. This satisfies OSC-5.1 Policy 2 by providing land that is used for parks. Additionally, the Project proposes two pocket parks in place of the bridge landings and enhanced pedestrian connections to the public walking trail such as bollard lighting and 4 access points to the trail. One access point at the north end of the trail, an access point at the north-western end of the trail, an access point from the west pocket park to the trail, and an access point from Las Positas Road to the trail.

BE IT FURTHER RESOLVED that the Livermore Planning Commission, based upon its own independent review of the Record Evidence and considerations, and based on the above findings which are necessary to protect the public health, safety, and general welfare, hereby recommends the City Council approve Site Plan Design Review Modification (SPDRM) 24-001, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002, together with the Conditions of Approval as modified in Exhibit C to the City Council Project Approval Resolution.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct the Planning Manager to file a Notice of Determination for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 with the Alameda County Clerk if the Project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Fintschenko, seconded by Commissioner Kronzak, the foregoing Resolution was adopted at the Planning Commission meeting of July 16, 2024, by the following vote:

AYES: ANDERSON, DUNBAR, FINTSCHENKO, KRONZAK, LEARY.
NOES: NONE.
ABSENT: NONE.

Jacob Anderson, Chairperson

Stephen Riley

by Stephen Riley, Planning Manager
Secretary to the Planning Commission

PLANNED DEVELOPMENT STANDARDS

Planned Development Residential 16-004
Planned Development Residential 16-004 amended by Planned Development 24-001

Development of 435 residential units, two neighborhood parks, open space and recreational amenities, pedestrian pathways, landscaping, lighting, and streetscape improvements~~, and a pedestrian bridge over the Arroyo Seco channel~~ on the approximately 28.5-acre Arroyo Vista Neighborhood Site.

Location: North side of Las Positas Road between Arroyo Vista Drive and Bennett Drive, intersected by the Arroyo Seco Channel.

Recommended for Approval by the Planning Commission: June 20, 2017
Approved by City Council: July 24, 2017
Recommended for Amendment by the Planning Commission: July 16, 2024
Amended by City Council: September 9, 2024

[Note to reviewer: Between the Planning Commission July 16, 2024 and City Council September 9, 2024 public hearings, staff has clarified that Planned Development 24-001 is an amendment to Planned Development 16-004, as reflected in this record.]

A. PURPOSE AND INTENT

1. The purpose of establishing this Planned Development District is to regulate the development of 28.5+/- acres of land located on the north side of Las Positas Road between Arroyo Vista Road and Bennett Drive, intersected by the Arroyo Seco Channel subdivided by Vesting Tentative Tract Map 8379 generally shown in Exhibit A.

2. The intent of this Planned Development District is to accomplish the following:

   a) To implement the Arroyo Vista Neighborhood Plan.

   b) To establish a comprehensively planned traditional neighborhood development that incorporates a pedestrian-oriented network of open space and walkways, high-quality architectural details, and adequate provision of public services and safety.

   c) To provide an aesthetically attractive environment for and conducive to the development and protection of residential development.

   d) To allow flexible subdivision design and development that encourages a variety of lot sizes and housing types that will accommodate a diverse range of residents and household income levels.

   e) To provide parks, trails, and open space for the recreational use and enjoyment of neighborhood residents.

B. PRINCIPAL PERMITTED USES

The following are the principal permitted uses in this District:

1. Detached single-family dwellings on individual lots.

2. Attached single-family dwellings on individual lots (i.e., townhomes).

3. Attached multi-family dwellings subdivided as condominiums (i.e., flats).

C. ACCESSORY USES

The following are the accessory uses permitted in this District:

1. Community parks, open spaces, and recreational amenities, including but not limited to: pathways, gardens, playgrounds, club houses/community buildings, outdoor seating and kitchen areas, pools, and cabanas.

2. Home Occupation in accordance with Livermore Development Code 6.02.060.

3. Accessory structures and buildings related to any permitted use, except home occupations, in accordance with Livermore Development Code 4.02.030.

4. Signs in accordance with Livermore Development Code 4.06.240 or 4.06.250. Monument features at the entries to the neighborhood and paseos, consistent with the Arroyo Vista Neighborhood Plan, are allowed. The name of community shall not be included on monument entry features.

D. CONDITIONAL USES

The following uses are permitted subject to approval of a Conditional Use Permit in addition to any other prerequisite permits and conformance to all applicable regulations set forth in this Planned Development and elsewhere in the Zoning Ordinance:

1. Public and Quasi-Public uses, not listed in Section C above, in accordance with Livermore Development Code 6.02.090.

2. Once the TDC option is used on any parcel within the Neighborhood Plan area, any future proposal to develop at the baseline industrial designation on any parcel would require discretionary approval of a Conditional Use Permit.

E. RESTRICTIONS

1. Building additions that result in net new floor area are prohibited.

a) Minor building extensions such as chimneys and bay windows are allowed up to the maximum building height. Uncovered porches or decks no more than 18 inches in height are also allowed, although these features may not encroach into the required front or side yard setbacks.

b) Exceptions to this regulation will require a PD Amendment under the requirements of Chapter 9.14 of the Livermore Development Code.

2. Garage conversions into dwelling units or living space are prohibited.

3. Mechanical equipment such as air conditioning units, antennas, or ground-mounted satellite dishes, not originally constructed, are prohibited unless concealed or not visible from adjacent properties. Wall-mounted satellite dishes less than 24 inches in diameter are allowed.

4. Solar energy systems that meet the following criteria shall be allowed with a Building Permit:

   a) Any such system must be consistent with the design and architecture of the residential unit or structure to which it is adjacent or affixed.

   b) The location of the system must not cause glare or visual distraction to surrounding properties in the project.

   c) The materials used to support or surround the system must be compatible with the nature and color of the adjacent structures.

F. DEVELOPMENT REGULATIONS FOR ALL RESIDENTIAL LOTS

1. **Definition of setbacks.** “Front” is defined as the side of the dwelling unit where the main entry is located. “Side” is defined as the side of the dwelling unit where there is either no access to the unit or the access to the unit is secondary. Setbacks are measured from the inside edge of the sidewalk (along a street) or pathway (along a paseo) to the wall plane, unless otherwise noted. Paseos are defined as landscaped corridors with a minimum 4-foot wide pathway, not located along a street.

2. **Encroachments into yards.** Certain architectural features including fireplaces, media niches and bay windows may encroach into the front, side, and rear yards up to a maximum of 3 feet in depth with a maximum width of 10 feet.

3. **Encroachments into setbacks on curvilinear streets.** Encroachments may be permitted per Section 4.1.4.2 of the Arroyo Vista Neighborhood Plan.

4. **Encroachments into arroyo setback.** The end unit of the residential building located in the southwestern corner of the eastern portion of the site (located on lot 301 of the Tentative Tract Map) may encroach by up to 10 feet into the 30-foot setback from the property line with the Arroyo Seco flood control channel.

G. DEVELOPMENT REGULATIONS FOR DETACHED RESIDENTIAL LOTS

1. **Lot Specifications.** Lots for single-family detached residences created under the terms of this Planned Development District shall conform to the following:

   a) Minimum Lot Size: 2,150± square feet.

   b) Average Lot Size: 2,600± square feet.

   c) Maximum Lot Size: 4,790± square feet.

   d) Lot Width: Minimum 32 feet

   e) Corner Lot Width: Minimum 38 feet

2. **Building Height Maximum.** 45 ~~35~~ feet and three ~~two~~ stories of livable area

3. **Minimum Setbacks.**

   a) Front Porch at Street: 7 feet

   b) Front Porch at Paseo: 5 feet

   c) Front Wall Plane at Street: 13 feet

   d) Front Wall Plane at Paseo: 7.6 feet

   e) Side Yard Along Street: 6 feet

   f) Side Yard Along Alley: 5 feet

   g) Side Yard Along Paseo: 5 feet

   h) Side Yard Separation (Building to Building): 10 feet

   i) Building Face to Building Face: 32 feet

   j) Garage Face to Face of Curb Along an Alley: 6 feet

   k) Garage Face to Garage Face Along an Alley: 32 feet

   l) Building Face to Arroyo Seco Channel Right-of-Way: 30 feet

H. DEVELOPMENT REGULATIONS FOR ATTACHED RESIDENTIAL LOTS

1. **Lot Specifications (Townhomes).** Lots for attached single-family residences created under the terms of this Planned Development District shall conform to the following:

a) Minimum Lot Size: 1,000 square feet.

b) Average Lot Size: 1,600 ± square feet.

c) Maximum Lot Size: 3,600 square feet.

2. **Lot Specifications (Flats).** Lots for multi-family residences created under the terms of this Planned Development District shall conform to the following:

   a) Minimum Lot Size: 7,100 square feet.

   b) Average Lot Size: 8,900 ± square feet.

   c) Maximum Lot Size: 9,700 square feet.

3. **Building Height Maximum.** 45 feet and 3 Stories of livable area.

4. **Minimum Setbacks.**

   a) Front Porch at Street: 7 feet

   b) Front Wall Plane at Street: 15 feet

   c) Building Side to Building Side – No Pathway: 12 feet

   d) Building Side to Building Side – With Pathway: 15 feet

   e) Porch / Courtyard Separation at Paseos: 15 feet

   f) Garage Face to Garage Face Along Alley: 32 feet

   g) Building Face to Arroyo Seco Channel Right-of-Way: 30 feet

5. **Average Setbacks.** Building Face to Building Face along Paseos: 34 feet (average for each paired building cluster)

I. PARKING

1. **Detached dwellings:** Minimum 2 car garage with 1 guest space per unit.

2. **Attached/multi-family dwellings:** Minimum 2 car garage with 0.25 guest spaces per unit.

J. OPEN SPACE

1. **Parks:** Minimum of one neighborhood park with a minimum size of 0.20 acres on each side of the Arroyo Seco Channel.

2. **Single Family:** No minimum. The Arroyo Vista Neighborhood Plan assumes each lot incorporates private open space as defined by the minimum building setbacks.

   a) Porches shall be minimum of 7 feet in either dimension.

3. **Multi-Family:** Minimum 1,000 square feet per unit spread out among three types of open space as follows:

   a) Private Open Space (porches, decks, and courtyards for the exclusive use of private dwelling, with minimum of 7 feet in both dimensions): 10%-30%.

   b) Semi-Private Open Space (outdoor areas between porches and sidewalks and between buildings and drive aisles): 20%-35%

   c) Common Open Space (useable spaces such as neighborhood parks, gardens, and paseos): 40%-60%.

4. **Width of a Paseo:** Minimum 15 feet.

K. REVIEW PROCESS

1. Residential development covered by this Planned Development is subject to the Transfer of Development Credit (TDC) Ordinance and fees.

2. Before a building permit is issued for any new structure, or a grading permit for grading, the property owner shall obtain Site Plan and Design Review approval under Part 9 of the Livermore Development Code. The site plan approval for property within this PD-R district may include development conditions not limited to building design and arrangement, circulation, access, lighting, fencing, landscaping and screening, and maintenance of common area.

3. Minor changes to the site plan and architectural and landscape plans shall be reviewed and approved by City staff if they are determined to be in substantial conformance with the approved plans and are consistent with the intent of this Planned Development and the Arroyo Vista Neighborhood Plan.

4. A variance to the terms of this Planned Development may be approved by the Planning Commission subject to the requirements of Chapter 9.10 of the Livermore Development Code.

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE APPROVING DEVELOPMENT AGREEMENT AMENDMENT (DAA) 24-001 WITH TH ARROYO VISTA LLC, FOR THE ARROYO VISTA NEIGHBORHOOD PROJECT, TO PROVIDE FINANCIAL CERTAINTY FOR THE APPLICANT AND SECURE COMMUNITY BENEFITS FOR THE CITY OF LIVERMORE

California Government Code Section 65864 et seq. (implemented by Livermore Development Code Chapter 9.04) allows local jurisdictions and private parties to enter into Development Agreements in order to vest certain development rights and to meet local public purpose.

In December 2016, the City of Livermore ("City") received an application from SummerHill Livermore LLC to develop the approximately 29-acre vacant parcel located at the southeast corner of the Arroyo Vista and Las Positas Road intersection with a residential development project.

On July 24, 2017, SummerHill Livermore LLC and the City of Livermore entered into a Development Agreement (DA) 17-002 and recorded as Document No. 2017251014 in the Official Records of Alameda County.

On January 19, 2023, TH Arroyo Vista LLC ("Applicant") acquired the project property from SummerHill Livermore LLC to develop the approximately 29-acre vacant parcel located at the southeast corner of the Arroyo Vista and Las Positas Road intersection with a residential development project, consistent with the 2017 approval.

On January 25, 2024, the City received an amended application from the Applicant for approximately 15-acres of the site that is currently being graded to allow construction of the residential buildings that are not subject to this amendment. The applications for the modified Project include Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The modified Project would remove the bridge requirement due to it becoming infeasible. Additionally, the modified Project would allow for taller homes of up to 45 feet and 3 stories that meet current market demands. The modified Project would develop at the intersection of southeast of Las Positas and Arroyo Vista Road, consistent with the 2017 approval. The Project includes 86 residential units, amenity space, two approximately 1.5-acre neighborhood parks with an additional approximately 0.5 acres of pocket parks, street improvements, street trees, and utility infrastructure. The residential units consist of for sale detached single-family homes. The Project also includes a Development Agreement Amendment (the "Development Agreement Amendment") between the City and Developer, and Neighborhood Plan amendments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES FIND AND ORDAIN AS FOLLOWS:

Section 1. *Authority*. Pursuant to California Government Code Section 65864 et seq., the City Council considers that certain document under City Application No. Development Agreement Amendment 24-001 for the Arroyo Vista Residential Project. The Development Agreement Amendment is attached hereto as Exhibit B.

Section 2. *Recommendation*. The Planning Commission held a duly noticed public hearing on July 16, 2024, to consider adoption of an ordinance approving the Development Agreement Amendment and by its Resolution No. 25-24, attached hereto as Exhibit A, recommended that the City Council adopt the ordinance and approve the Development Agreement Amendment.

Section 3. *Public Hearing*. Prior to taking action on the Project, and at a properly noticed public hearing, the City Council of the City of Livermore reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony; and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The City Council's determination is based on the Record Evidence, which is incorporated into this Ordinance by reference.

Section 4. *Environmental Review*. The City Council has adopted Resolution No. [_____] adopting the Arroyo Vista Neighborhood Project Addendum to the Arroyo Vista Neighborhood Plan Initial Study/Mitigated Negative Declaration [IS/MND] (State Clearinghouse No. 2007052028), as amended by the 2017 addendum, and finding that no subsequent or supplemental IS/MND is required, under the provisions of the California Environmental Quality Act ("CEQA") per CEQA Guidelines section 15162.

Section 5. *Consistency*. Development Agreement Amendment 24-001 is consistent with the General Plan and the Livermore Development Code Chapter 9.04.

Section 6. *Findings and Approval*. The City Council has considered the findings made in Planning Commission Resolution No. 25-24, attached hereto as Exhibit A, and hereby adopts the same findings by this reference and incorporates them herein, and based upon the City Council's own independent review of the Record Evidence and considerations, it adopts this Ordinance approving the Development Agreement Amendment.

Section 7. *Signing Authority.* The City Manager is hereby authorized to sign the Development Agreement Amendment, attached hereto as Exhibit B, on behalf of the City of Livermore.

Section 8. *Publication and Effective Date*. This ordinance or a comprehensive summary thereof shall be published once in a newspaper of general circulation of the City of Livermore within 15 days after its adoption and shall take effect and be in force 30 days from and after its adoption.

Section 9. *Filing*. The Planning Manager is directed to file a Notice of Determination for the Arroyo Vista Neighborhood Plan Addendum with the Alameda County Clerk.

Section 10. *Recording*. The City Clerk is directed to record the Development Agreement Amendment within 10 days after the effective date of the Development Agreement Amendment.

Section 11. *Documents*. The documents that constitute the record of proceedings upon which this decision is based on can be found in the City Clerk's Office, 1052 S. Livermore Avenue, Livermore, California.

Section 12. *Severability*. If any part of this ordinance is declared unconstitutional or invalid by a court, such unconstitutionality or invalidity shall not affect any remaining parts.

The foregoing ordinance was introduced at the meeting of the City Council of the City of Livermore held on September 9, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

The ordinance was adopted at the regular meeting of the City Council held on _____, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor, City of Livermore

ATTEST:

_____
Deborah L. Elam
Acting City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Planning Commission Resolution 25-24
Exhibit B – Development Agreement Amendment

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE SITE PLAN DESIGN REVIEW MODIFICATION (SPDRM) 24-002, DEVELOPMENT AGREEMENT AMENDMENT (DAA) 24-001, PLANNED DEVELOPMENT REZONING (PD) 24-001, AND SPECIFIC PLAN AMENDMENT (SPPA) 24-002 FOR THE ARROYO VISTA NEIGHBORHOOD DEVELOPMENT

On October 11, 2017, the City received an application from LLC SummerHill to develop the approximately 29-acre vacant parcel located at the southeast corner of Arroyo Vista and Las Positas Road intersection with a residential development project.

On January 25, 2024, the City received an amended application from the Applicant for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001, Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 (collectively, the "Project"). The Project would develop vacant land located southeast of Las Positas and Arroyo Vista Road intersection, implementing the Arroyo Vista Neighborhood Plan ("Project"). The Project includes 86 residential units, amenity space, two approximately 1.5-acre neighborhood parks with an additional approximately 0.5 acres of pocket parks street improvements, street trees, and utility infrastructure. The residential units consist of for sale detached single-family homes. The Project also includes a Development Agreement between the City and Developer, and Neighborhood Plan amendments.

On July 16, 2024, the Planning Commission held a duly noticed public hearing to consider the Project, staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Livermore that prior to taking action on the Project, and at a properly noticed public hearing, the Planning Commission reviewed written and oral staff reports, conducted a public hearing on the Project and took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore has considered the Record Evidence and recommends the City Council adopt a resolution adopting an Addendum to the 2007 Arroyo Vista Neighborhood Plan, as amended in 2017 (#2007052028), consistent with the requirements of the California Environmental Quality Act ("CEQA").

BE IT FURTHER RESOLVED, with respect to Site Plan Design Review Modification 24-002, the Planning Commission finds based upon the information presented that:

1. The proposed development will be permitted within the subject zone.

Findings: The Project Site is zoned Planned Development (PD) 16-004, which permits

residential uses. The Project still proposes single-family development consistent with the PD with the PD amendments to the single-family homes as described below, a variety of open space areas and amenities, including two neighborhood parks, paseos, two pocket parks, and a public trail. All of the Project's proposed uses are permitted by the Project Site's applicable zoning designations.

2. The proposed development will be designed such that:

   a. The project will not be detrimental to the public health, safety, or general welfare, and not detrimental to adjacent property;
   b. Architectural design and functional plan of the structure(s) and related improvements are of reasonable aesthetic quality and compatible with adjacent developments;
   c. Structure(s) and related improvements are suitable for the proposed use of the property and provide adequate consideration of the existing and contemplated uses of land and orderly development in the general area of the subject site; and
   d. The project's site plan and design is consistent with the City's Design Standards and Guidelines.

Findings:

The proposed Project will not be detrimental to the commercial and light industrial uses of adjacent properties. The Project provides adequate emergency vehicle access throughout the site and necessary ariel access for fire access on units located in alleyways that do not allow for truck turnaround. Water and sewer service will be provided to all units and stormwater will be appropriately managed on site. The site layout is suitable for trash pickup and adequate space will be provided in each residential unit garage buildings for all waste streams.

The Project proposes a variety of architectural styles, emphasizing traditional designs and building materials. The design will feature traditional architectural styles such as Craftsman, Prairie and Ranch.

The proposed traditional architectural styles incorporate design features and materials that will be compatible with existing and future developments in the surrounding areas. Additionally, the Project utilizes varied building materials, neutral colors, and varied building facades to reduce massing, distinguish each building, and provide a high degree of visual interest, variation, and articulation. The proposed color palette and design are compatible with the existing neutral and earth tones used in neighboring industrial and commercial developments.

The Project site is vacant with some preliminary grading approved. The proposed structures and improvements to be developed would be suitable for the Project's proposed mix of uses. The structures and improvements would be compatible with the industrial uses to the north and south of the Project site and commercial uses to west of the Project site across Las Positas Road and the business park uses to the east of the Project site across Bennett Drive. Additionally, the arrangement of structures and

improvements provides for appropriately scaled and orderly development and circulation throughout the Project Site.

The Project proposes a variety of architectural styles that vary by unit throughout the architectural site plan, emphasizing modern designs and building materials that are consistent with the Neighborhood Plan and the City's design standards and guidelines. The single-family homes provide a mix of board and batten, brick, gable trim, and decorative corbels.

The building's fenestration promotes order and variety. Massing is reduced through wall plane changes and belly bands. Additionally, the buildings use brick, stone, and other materials to provide visual interest.

The Project is also conditioned to conform with the Mitigation, Monitoring, and Reporting Program (MMRP) adopted with the certified 2007 Initial Study/Mitigated Negative Declaration, as amended in 2017. The Project is not detrimental to adjacent properties and considers adjacent uses in the general area. All project frontages contain substantial landscaping and trees to appropriately screen the proposed buildings. The Project meets applicable parking standards. The residential use promotes synergy with surrounding uses, locating residents close to job centers, commercial uses, and will not produce any dust, odor, noise, or glare during regular operations. The structures are suitable for the site and the site plan is consistent with the City's Design Standards and Guidelines.

3. The proposed development is designed to include the following criteria, as applicable:

   a. Compliance with Chapter 9.07 of the Development Code (Site Plan and Design Review), Municipal Code Title 15 (Buildings and Construction), and any other applicable City regulations and policies;
   b. Efficient site layout and design;
   c. Compatible and appropriate in scale to neighboring properties and developments.
   d. Efficient and safe public access (both pedestrian and vehicular) and parking;
   e. Appropriate and harmonious arrangement and relationship of proposed structures and signs to one another and to other development in the vicinity, based on good standards of design;
   f. Appropriate relationship to land use and development of adjacent properties, including topographic and other physical characteristics of the land;
   g. Proper site utilization and the establishment of a physical and architectural relationship to existing and proposed structures on the site;
   h. Compatible architectural style with the character of the surrounding area, both to avoid repetition of identical design where not desired, and to ensure compatibility in design where desired;
   i. Harmonious relationship with existing and proposed developments and the avoidance of both excessive variety and monotonous repetition;
   j. Compatible in color, material, and composition of the exterior elevations to neighboring visible structures;
   k. Appropriate exterior lighting which provides for public safety and is not of a nature

that will constitute a hazard or nuisance to adjacent properties;

l. Compatible in scale and aesthetic treatment of proposed structures with public areas;
m. Appropriate open space and use of water efficient landscaping; and
n. Consistent with the General Plan and any applicable Specific Plan.

Findings:

The proposed residential development is compliant with the Project site's zoning and would comply with all building code requirements and any additional applicable City regulations pertaining to the development and operation of the Project.

The design, location, size, and operating characteristics of the Project makes the Project Site suitable for the type, density, and intensity of use being proposed. Non- residential spaces such as the pocket parks, paseos, and walking trail, will provide residents and guests with areas for leisure, exercise, and gathering consistent with the intent of the zoning to provide recreational uses for residents.

The Project is of compatible and appropriate scale to neighboring properties and development. Directly adjacent to the property to the east is a business park. North of the Project Site across Arroyo Vista is an existing commercial development of similar scale. East of the Project Site across the Arroyo Seco Channel is vacant land that will be developed with the remaining portions of the 2017 approval, which also features a variety of residential unit mixes and amenities. Accordingly, the Project would be compatible with existing neighboring developments.

A street network has been approved with the 2017 approval and the street network proposed is consistent with that design. Vehicular access would be provided via two access points. One point of vehicular ingress and egress would be located along Las Positas Road, and one point of vehicular ingress and egress would be located along Arroyo Vista. The project includes one new public street and several new private alleys that would be internal to the development, consistent with the 2017 approval. Five pedestrian pathways are proposed throughout the Project Site to maximize connectivity and accessibility for pedestrians.

The Project Site's proximity to major roadways and highways and the internal roadways within the Project provide sufficient public and emergency vehicle access. The Project would provide 273 parking spaces within private garages, guest parking spaces and public stalls. A bus stop would be located along Las Positas Road, consistent with the 2017 approval. Accordingly, the Project would provide efficient and safe public access.

The homes are strategically arranged and designed to be visually appealing, functional, and to facilitate pedestrian and vehicular traffic throughout the Project site by providing pedestrian entries in between homes and utilizing loop streets for vehicular traffic.

The adjacent property to the east consists of similar, mostly flat, topographic conditions. The proposed land use and development would be compatible with adjacent properties. The residential development would be carefully configured to connect with existing city streets and proposed internal streets, allowing for efficient circulation and access. Additionally, the Project would feature a pedestrian connection to the walking trail along the Arroyo Seco Channel.

The Project site does not contain any existing structures. The Project's configuration is harmonious with neighboring developments, with a consistent density throughout the site and special corner treatments to reduce massing and increase interest.

The proposed residential units would be properly configured with respect to existing Project Site conditions. There is 1 product type with 3 different floor plans. The homes will feature traditional architectural styles. The combination of architectural styles creates visual interest and variety, consistent with the Neighborhood Plan. Additionally, wrapped porches have been used at corner units to reduce massing and provide space activation.

The Project is designed such that it will be well integrated with the adjacent Industrial and Commercial development. Features like a walking trail provides connectivity to both the Industrial and Commercial. The Project features a variety of unit mixes and types and community open space, consistent with the Neighborhood Plan. The architectural styles and color palette is compatible with the natural colors used in neighboring developments, avoiding excessive variety. At the same time, the Project maintains its own unique character that creates neighborhood identity and incorporates residential uses into.

The composition of buildings and exterior elevations are compatible with neighboring industrial and commercial uses. The proposed modern and American architectural styles incorporate design features and materials that distinguish the Project from surrounding developments, while complementing other styles within the Neighborhood Plan and surrounding areas. The proposed color palette is compatible with existing natural tones used in neighboring residential developments. The proposed materials are appropriate, standard materials like those used in the surrounding product types from the Neighborhood Plan.

The Project provides appropriate exterior lighting that promotes public safety and is not of the nature that will constitute a hazard or nuisance to adjacent properties. Streetlights, consistent with City standards, are proposed throughout the Project's internal roads to provide internal lighting for pedestrian and vehicular travel. Pedestrian-scale lighting, in the form of bollard lighting, is concentrated primarily along paseos and pedestrian paths, with additional lighting at the entrance of the pedestrian path connecting from the eastern corner connecting Las Positas Road to the site, providing a safe and walkable connection from the eastern parcel to the western parcel. Roadway lights are proposed along Arroyo Vista and Las Positas Road. All lighting would all comply with the City's lighting standards and will be down shielded.

The Project proposes to provide 130, 616 square feet of open space. The Project would feature water-efficient landscaping throughout, resulting in 179,870 square feet of water efficient landscaping. The Estimated Total Water Use would not surpass the Maximum Allowed Water Allowance. The Project would not utilize recycled water due to a lack of connection to recycled water in the site area.

The Project is consistent with the General Plan in that the Project is located so as to create a consolidated pattern of urbanization, maximizing the use of existing public services and facilities (Objective LU-1.1); including the 2017 approval, it creates neighborhoods that include a range of housing types to meet the needs of all residents (Objective LU-1.2); it create neighborhoods near transit that include a mix of uses and a range of housing types to meet the needs of all residents (Objective LU-3.1). It maintains and enhances Livermore's urban design quality and encourage high quality design in all new development and redevelopment (Objective CC-2.1)It encourages and provides greater support for infill and higher density development in order to reduce Greenhouse Gas (GHG) emissions associated with vehicle travel (Objective CLI-1.2); it supports measures that encourage alternative modes of transportation in order to reduce emissions associated with vehicle travel (Objective CLI-1.3); it enhances existing water efficiency and conservation measures in order to reduce energy and GHGs associated with water use (Objective CLI-1.4); and, it expands the number of trees in Livermore in order to provide a larger carbon sink or area containing natural sources that retain more carbon than what those sources emit (Objective CLI- 1.6).

The Neighborhood Plan Goals and Policies are outlined under Site Plan in the Street Pattern, Access and Internal Circulation, Traffic, Parking, Trails, Pedestrian, and Bicycle Facilities, Open Space and Parks, Lot Layout, and Development Agreement Amendment, Site Plan and Design Review, and Neighborhood Design; these sections describe consistency with the Neighborhood Plan goals and policies.

BE IT FURTHER RESOLVED, with respect to Development Agreement Amendment 24-002, the Planning Commission finds based upon the information presented that:

1. The Development Agreement provides benefit to the City.

Findings: The Development Agreement Amendment will facilitate the development of the proposed Arroyo Vista Neighborhood development project (Project), which provide substantial benefits to the City.

This Project will also serve the best interests, and the public health, safety, and welfare of the residents of the City through: the provision of substantial public revenue in the form of an in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund and increased real property and sales taxes; the provision of land uses that are compatible with the physical nature of the Property and the surrounding area; a new community that provides an additional customer base to the surrounding commercial businesses; new trail and pocket parks that bolster

walkability and connectivity; More information regarding each City benefit is described below:

Alternative Transportation Infrastructure

The Agreement secures a walking trail that connects to private parks, providing greater connectivity and destinations for pedestrians and bicyclists. Walkability is a tenant of the Neighborhood Plan, and these amenities help to support the goals of the plan. Additionally, the build out of the trail aid in Active Transportation Plan goals as the trail along the Arroyo Seco Channel would eventually connect to the Iron Horse Tail, once completed by the City and other public and private partners.

Financial Contributions

The Agreement secures an additional $2,000,000 in public funding for the City's Community Benefit Fund and the Social Opportunity Endowment Fund.

2. The Development Agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable Specific Plan, and this Development Code.

Findings: The Project would not change the General Plan land use designation of Light Intensity Industrial (LII) and Urban High Density Residential (UH-3) and Arroyo Vista Neighborhood Plan; and would comply with the General Plan and Neighborhood Plans purpose, intent, goals, policies, and program. The Project is designed to develop a vibrant, safe, and walkable neighborhood with a range of architectural styles open space and recreational amenities, and citywide goals for and alternative transportation.

The Project would be consistent with the regulations and provisions of the Neighborhood Plan, inclusive of the proposed Specific Plan Amendment to remove the pedestrian bridge. The project proposes to remove the pedestrian bridge and provide two pocket parks in place of the bridge landings to meet the goals of the Neighborhood Plan by providing additional public space that contributes to the goals of recreational activities and walkability. In addition, the Project would contribute $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund to support community and housing needs.

Further, the Project ensures that its proposed land uses are compatible with existing neighboring industrial and commercial uses and transportation infrastructure by minimizing conflicts between adjacent land uses with respect to scale, safety, noise, privacy, transportation, and other potential nuisances and hazards. The Project proposes an emphasis on traditional architecture with traditional design elements and articulated facades, multiple architectural styles while providing cohesive design and site plan layout, and multiple material types, consistent with applicable General Plan and Neighborhood Plan goals and policies.

3. The Development Agreement Amendment complies with the requirements of Government Code Sections 65864 through 65869.5.

Findings: The Development Agreement Amendment between the City and the Developer regulates development of the Project site (Project Site) with the Project. Pursuant to the applicable requirements of the California Government Code governing development agreements, the Development Agreement Amendment specifies the duration of the agreement, the amount and timing of the payments for the in-lieu contribution of $2,000,000 to the Community Benefit Fund and Social Opportunity Endowment Fund, and the number of as well as the location of the pocket parks, among other terms and applicable requirements for California development agreements. Review, approval, and recordation of the Development Agreement Amendment will furthermore be conducted in accordance with the provisions of Government Code sections 65864 through 65869.5.

Government Code Section 65867.5 requires that, if a Development Agreement includes a subdivision, that the Tentative Map complies with Government Code Section 66473.7, which mandates that sufficient water supply be made available for new subdivisions. The Project does not include a Tentative Map. Therefore, the Project complies with Government Code Section 65867.5.

BE IT FURTHER RESOLVED, with respect to Development Code Amendment (DCA), known as Planned Development (PD)24-002 throughout this document, the Planning Commission finds based upon the information presented that:

1. The proposed amendment is consistent with the General Plan and any applicable Specific Plan.

Findings: The Project proposes PD24-002 to: 1) Enable the approval of the Project's proposed increase of allowable building height to 45 feet and 3 stories high; and 2) Replace the existing Neighborhood Plan's requirement to provide a pedestrian bridge over the Arroyo Seco Channel. Each component of the Amendment is consistent with the General Plan and Arroyo Vista Neighborhood Plan, as follows:

Consistency with General Plan Housing and Open Space Element

The proposed Inclusionary Ordinance amendments are consistent with the following General Plan Housing Element policies:

- Policy 1.2: Facilitate the development of a range of housing types through area planning efforts.
- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.

The Arroyo Vista Neighborhood Plan was developed in 2007 and the original entitlement was approved in 2017. The proposed amendments facilitate the developer to provide a range of housing types, including the 2017 approval, by adjusting the

number of stories to meet the housing needs and market of 2024. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The bridge became infeasible due to liability and legal and long-term maintenance issues with Zone 7 and the City and required a zoning amendment. Consistent with the Neighborhood Plan, the Project is providing two neighborhood parks in addition to the two pocket parks proposed in this amendment.

Consistency with Light Intensity Industrial Urban High

Residential General Plan Designation. The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, and walkable neighborhood that includes amenities for residents; ensure new development is compatible with existing development and community character The proposed amendments would facilitate the proposed Project, which will provide housing choices with a variety of architecture in an area with accessible commercial, services, and open space.

Consistency with Arroyo Vista Neighborhood Plan

The proposed Inclusionary Ordinance Amendments are consistent with the following Specific Plan Goals:

- 4.1.3.3 The maximum allowable height for buildings in the Neighborhood is 45 feet. This maximum height is allowed on two and one-half, and three-story buildings only.
- 2.6(2) Usable common open space areas including paseos.

The proposed Amendments would allow for more flexibility in building heights and number of stories, consistent with the Neighborhood Plan that allows for building heights of to 45 feet on 3 story products. The Project is proposing building heights of up to 45 feet on the single-family homes. It allows the developer to meet the market needs of today. Additionally, the Project proposes to provide two pocket parks in place of the bridge landing locations. The pocket parks provide additional open space that surpasses the standard requirement of a minimum of two neighborhood parks on either side of the development. The 2017 approval will still be providing the two neighborhood parks in addition to the two pocket parks. The proposed changes align with the Arroyo Vista Neighborhood Plan.

2. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

   Findings: The amendment of 45 feet and 3 stories high is consistent with the surrounding character. The 2017 approval provides multi-family, flats, and townhome product types that are 3 story buildings. Further, the single-family homes provide reduced massing and greater visual relief than the multi-family, flats, and townhome product as they are detached. The number of proposed units in consistent with the

2017 approval which was analyzed traffic, emergency, and public services. In addition, the removal of the pedestrian bridge provides lower impacts on the environment. The Project is proposing pocket parks in place of the pedestrian bridge landings to contribute additional open space. To supplement the loss of the bridge, the Project will be providing bollard lighting and a pedestrian pathway at the south-western corner of the eastern parcel to bolster connections for pedestrians from the eastern parcel to the western parcel along Las Positas Road. The Project would still provide utilities and services to all new residents and would be required to protect the environment. Therefore, the proposed Amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

Findings: The proposed amendments do not affect any other sections of the Development Code. Therefore, both changes will not conflict with any other provision of the Development Code.

BE IT FURTHER RESOLVED, with respect to Specific Plan Amendment (SPPA) 24- 002, the Planning Commission finds based upon the information presented that:

1. A Specific Plan may only be amended if first found consistent with the General Plan in compliance with Government Code Section 65454.

Findings: The Project proposes a Neighborhood Plan Amendment to: 1) Remove the pedestrian bridge requirement from the Arroyo Vista Neighborhood Plan. The pedestrian bridge became infeasible due to liability, legal and long-term maintenance issues with Zone 7 and the City. In place of the pedestrian bridge landings, the Project will be providing two pocket parks; 2) Redline the conceptual plans and figures to show the removal of the pedestrian bridge. Each component of the Amendment is consistent with the General Plan, as follows:

Consistency with Light Intensity Industrial and Urban High Residential (UH-3)

The project site has a General Plan land use designation of Light Intensity Industrial and Urban High Residential (UH-3). The Arroyo Vista Neighborhood seeks to create a safe, vibrant, walkable neighborhood that includes accessible commercial, services, and open space for residents; ensure new development is compatible with existing development and community character. The proposed amendments would facilitate the proposed Project. The Project is consistent with the land use designation and implements the General Plan goals for the Arroyo Vista Neighborhood. For example, the Project would create a new vibrant neighborhood, a range of amenities, including two neighborhood parks (consistent with the 2017 approval), paseos, a private community pool, and pocket parks. The Project is also compatible with surrounding development since the building heights are consistent with the building heights of the surrounding products from the 2017 approval, and the buildings are designed with

traditional architectural features common in Livermore, like brick, deep eave overhangs and spacious porches.

Additionally, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks.

Consistency with Open Space Element

More specifically, the proposed removal of the pedestrian bridge amendment is consistent with the following General Plan Land Use Element policies:

- OSC-5.1 Policy 2: Require developers to provide land or in lieu fees for parks, as governed by the terms of the Quimby Act.
- Recreational access to the open space surrounding the City shall be encouraged to the extent that it is compatible with provisions of the Land Use Element.

In addition, the Project provides open space in the form paseos, private open space, patios, two neighborhood parks (consistent with the 2017 Approval), and two pocket parks. This satisfies OSC-5.1 Policy 2 by providing land that is used for parks. Additionally, the Project proposes two pocket parks in place of the bridge landings and enhanced pedestrian connections to the public walking trail such as bollard lighting and 4 access points to the trail. One access point at the north end of the trail, an access point at the north-western end of the trail, an access point from the west pocket park to the trail, and an access point from Las Positas Road to the trail.

BE IT FURTHER RESOLVED that the Livermore Planning Commission, based upon its own independent review of the Record Evidence and considerations, and based on the above findings which are necessary to protect the public health, safety, and general welfare, hereby recommends the City Council approve Site Plan Design Review Modification (SPDRM) 24-001, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002, together with the Conditions of Approval as modified in Exhibit C to the City Council Project Approval Resolution.

BE IT FURTHER RESOLVED that the Livermore Planning Commission recommends the City Council direct the Planning Manager to file a Notice of Determination for Site Plan Design Review Modification (SPDRM) 24-002, Development Agreement Amendment (DAA) 24-001), Planned Development (PD) 24-001, and Specific Plan Amendment (SPPA) 24-002 with the Alameda County Clerk if the Project is approved.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department 1052 S. Livermore Avenue, in Livermore, California.

On the motion by Commissioner Fintschenko, seconded by Commissioner Kronzak, the foregoing Resolution was adopted at the Planning Commission meeting of July 16, 2024, by the following vote:

AYES: ANDERSON, DUNBAR, FINTSCHENKO, KRONZAK, LEARY.
NOES: NONE.
ABSENT: NONE.

Jacob Anderson, Chairperson

Stephen Riley

by Stephen Riley, Planning Manager
Secretary to the Planning Commission

RECORDATION
Return to:
City Clerk
City Hall
1052 So. Livermore Ave.
Livermore, CA 94550

FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
THE ARROYO VISTA RESIDENTIAL PROJECT

This First Amendment is entered into this _____ day of _____, 2024, between Trumark Homes, LLC (dba. TH Arroyo Vista LLC) ("Developer" or "Property Owner") and the City of Livermore, a municipal corporation of the State of California ("City") for the Arroyo Vista Residential Project comprised of City entitlement applications Vesting Tentative Tract Map (VTTM) 8379, Subdivision (SUB) 16-010, Planned Development Residential (PDR) 16-004, Site Plan Design Review Modification (SPDRM) 24-002, and Development Agreement Amendment (DAA) 24-001 (the "Project").

RECITALS

A. On October 11, 2017, SummerHill Livermore LLC and the City of Livermore entered into a Development Agreement (DA) 17-002, and recorded as Document No.2017251014 in the Official Records of Alameda County (the "Original Development Agreement"). DA 17-002 implemented the associated project entitlements for a 435-units residential development. Those entitlements included Vesting Tentative Tract Map (VTTM) 8379, Site Plan and Design Review (SPDR) 16-027 and Planned Development Residential (PDR) 16-004.

B. On January 19, 2023, TH Arroyo Vista LLC acquired the Project property from SummerHill Livermore, LLC. Per Recital B in DA 17-002, the provisions of the Development Agreement run with the property. In addition, Recital B states that "Property Owner" means any successor to the Property Owner that obtains some or all of the Property Owner's legal rights and obligations pursuant to DA 17-002 or any legal interest to any portion of the Property. Therefore, all references to the Property Owner as cited in DA 17-002 and in this Agreement now apply to TH Arroyo Vista LLC.

C. The Property Owner has applied for an amendment to the Original Development Agreement (City File Development Agreement Amendment (DAA) 24-001) to request design changes to the original entitlement, including removing the on-site pedestrian bridge and increasing the height of the single-family detached homes ("Amendment").

D. This Amendment to the Original Development Agreement is required to reflect changes in the project.

E. This Agreement was adopted by ordinance of the City Council, after notice and public hearings before the Planning Commission and City Council and after City Council certification of an Addendum to the Addendum (adopted in 2017) of the Initial Study Mitigated Negative Declaration for the Arroyo Vista Neighborhood Plan (adopted in 2007) in accordance with the California Environmental Quality Act, Public Resources Code section 21000 and following.

F. The Original Development Agreement, together with this First Amendment, shall hereinafter collectively be referred to as the "Development Agreement" or the "Agreement."

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Recital C. Recital C of the Agreement is hereby amended to read: The Property Owner applied for a VTTM 8379, SUB16-010, SPDR16-027, PDR16-004, and DA17-002 approved by the City on July 24, 2017. The Property Owner has requested an amendment to SPDR16-027, PDR16-004, and DA17-002, and applied for SPDRM24-002, PDR24-001, and DAA24-001. These applications, along with the Development Plans and Conditions of Approval, are collectively referred to as the "Project Approvals". The Property Owner proposes to develop the Property into a 435-unit residential subdivision, consistent with the Project Approvals approved concurrently with this Agreement.

2. Section 2. The Project. Section 2 of the Agreement is hereby amended to read: The Property Owner is authorized to develop and use the Property for residential uses, in conformance with the terms and conditions of PD Ordinance No.____ (The "PD Ordinance"), adopted by the City Council on September 9, 2024. The PD Ordinance contains the required terms regarding the permitted uses of the Property, intensity of use, and the maximum height and size of proposed buildings. (Government Code section 65865.2.)

3. Section 4. Property Owner's Obligations.
   a. Text set forth in Section 4(a) of the Agreement is hereby amended to read:

      Property Owner agrees to comply with the requirements set forth in all Project approvals made by the City Council including the Development Plans and Conditions of Approval, which are incorporated into this Development Agreement by reference. In order to implement the Project, the Property Owner shall comply with the requirements set forth in the PD Ordinance, Resolution 2017-136 [VTTM Resolution], and Resolution 2024-____.

   b. Text set forth in Section 4(c) of the Agreement is hereby amended to read:

      The Developer agrees to construct a multi-use trail along the west side of the Arroyo Seco flood control channel between Arroyo Vista and Las Positas Road consistent with the Arroyo Vista Neighborhood Plan and Project Approvals. In lieu of designing and building a pedestrian and bike bridge over the Arroyo Seco channel as shown in the Arroyo Vista Neighborhood Plan, and the 2017 land use

entitlements, the Developer shall submit to City $2,000,000.00 to be split evenly between the Community Benefit Fund and Social Opportunity Endowment Fund. The $2,000,000.00 contribution shall be submitted as follows:

i. Prior to approval of the revised (phase 1) Final Map and Improvement Plan for the Property, the Developer shall pay $500,000.00 to the City.
ii. Prior to the issuance of the 1st Single Family Detached Building Permit, the Developer shall pay $750,000.00 to the City.
iii. Prior to the issuance of the 300th Building Permit (regardless of single-family detached or single-family attached), the Developer shall pay $750,000.00 to the City.

The Developer shall also design and build pockets parks where the original pedestrian and bike bridge landings were located and build enhanced pedestrian connections to Las Positas Road from within the residential development to be shown on the associated land use entitlement plans to be approved by the City.

5. Section 20. Notices. Section 20 of the Agreement is amended to include new and updated contact information and to read:

All notices or communication required hereunder between the City and Developer shall be in writing and may be given either personally, by certified mail, return receipt requested, or by overnight express carrier. The notice shall be deemed to have been given and received on the date delivered in person or the date upon which the postal authority or overnight express carrier indicates that the mailing was delivered to the address of the receiving Party. The Parties shall make good faith efforts to provide advance courtesy notice of any notices or communications hereunder via telefacsimile, however, under no circumstances shall such courtesy notice satisfy the notice requirements set forth above; nor shall lack of such courtesy notice affect the validity of service pursuant to the notice requirement set forth above. Any Party hereto, by giving ten (10) days written notice to the other, may designate any other address as substitution of the address to which the notice or communication shall be given. Notices or communications shall be given to the Parties at the addresses set forth below until specified otherwise in writing:

If to the City:

City Attorney
CITY OF LIVERMORE
1052 South Livermore Avenue
Livermore, CA 94550
FAX: 925/960-4459

If to Property Owner:

TONY BOWSOWSKI
Trumark Homes, LLC
Northern California Division President
3001 Bishop Drive Ste.100
San Ramon, CA 94583

If to the Planning Division:	KAITLYN HARRISON Assistant Planner 1052 S Livermore Avenue Livermore, CA 94550

4. All other provisions of the Development Agreement shall remain in full force and effect and unaltered by this amendment.

Signatures on Next Page

In concurrence and witness whereof, and in recognition of the mutual consideration provided therefore, the parties have executed this Agreement effective on the date first written above.

DEVELOPER

TH Arroyo Vista LLC,
A California Limited Liability Company

Tony Bosowski
Authorized Agent

7/9/24
Date

(ALL SIGNATURES NEED TO BE NOTARIZED)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Contra Costa)

On July 9, 2024 before me, Trevor Brown, Notary Public
(insert name and title of the officer)

personally appeared Tony Bosowski,
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.

NRO1 TREVOR BROWN COMM. #2446854 Notary Public - California Contra Costa County My Comm. Expires May 13, 2027 NRO1

Signature Trevor Brown (Seal)

CITY

CITY OF LIVERMORE,
a municipal corporation

DATED: _____

By _____
Marianna Marysheva
City Manager

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM:

_____
DEPUTY/ASSISTANT/CITY ATTORNEY

(ALL SIGNATURES NEED TO BE NOTARIZED)

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 7.1**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Designation of voting delegate and alternates for the 2024 League of California Cities General Assembly.

RECOMMENDED ACTION

Staff recommends the City Council appoint one voting delegate and up to two alternates to represent the City of Livermore at the 2024 League of California Cities General Assembly.

SUMMARY

Each year the League of California Cities ("League") holds a General Assembly where League membership considers and takes action on resolutions that establish League policy. In order to vote during the General Assembly, the City Council must designate a voting delegate and up to two alternates.

DISCUSSION

The League of California Cities is an association of California city officials who work together to shape policies affecting local government. The League's Annual Conference is scheduled for October 16-18, 2024, at the Long Beach Convention Center, including the General Assembly on October 18, 2024. At the General Assembly, cities will vote on resolutions that establish League policy. In order to vote on behalf of the City of Livermore during the General Assembly, the City Council must designate a voting delegate and up to two alternates, one of whom may vote in the event that the designated voting delegate is unable to serve in that capacity. This action must be taken by the City Council and cannot be accomplished by individual action of the mayor or city manager.

The voting delegate and alternates must be registered to attend the League's Annual Conference (either the entire conference or October 18th only). To cast the City's vote, the delegate or alternate must have in their possession the City's voting card and voting tool, and be registered with the League's Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates.

After the delegate and alternates have been designated by the City Council, staff will submit the online

Voting Delegate Form to the League by the deadline of September 25, 2024.

FISCAL AND ADMINISTRATIVE IMPACTS

There are no fiscal and administrative impacts associated with the designation of a voting delegate and alternates.

COMMUNITY PILLAR

5: A City That Works

GOAL

3: Federal and State Advocacy

ATTACHMENTS

1. 2024 Cal Cities Voting Delegate Information Packet

Prepared by: Debbie Elam
Acting City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LEAGUE OF CALIFORNIA CITIES

Council Action Advised by September 25, 2024

DATE: Wednesday, July 10, 2024

TO: Mayors, Council Members, City Clerks, and City Managers

RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference and Expo, Oct. 16-18, 2024
Long Beach Convention Center

Every year, the League of California Cities convenes a member-driven General Assembly at the Cal Cities Annual Conference and Expo. The General Assembly is an important opportunity where city officials can directly participate in the development of Cal Cities policy.

Taking place on Oct. 18, the General Assembly is comprised of voting delegates appointed by each member city; every city has one voting delegate. Your appointed voting delegate plays an important role during the General Assembly by representing your city and voting on resolutions.

To cast a vote during the General Assembly, your city must designate a voting delegate and up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity. Voting delegates may either be an elected or appointed official.

Action by Council Required. Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.

Following council action, please submit your city's delegates through the online submission portal by Wed., Sept. 25. When completing the Voting Delegate submission form, you will be asked to attest that council action was taken. You will need to be signed in to your My Cal Cities account when submitting the form.

Submitting your voting delegate form by the deadline will allow us time to establish voting delegate/alternate records prior to the conference and provide pre-conference communications with voting delegates.

Conference Registration Required. The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration is open on the Cal Cities website.

LEAGUE OF CALIFORNIA CITIES

For a city to cast a vote, one voter must be present at the General Assembly and in possession of the voting delegate card and voting tool. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the voting delegate desk. This will enable them to receive the special sticker on their name badges that will admit the voting delegate into the voting area during the General Assembly.

Please view Cal Cities' event and meeting policy in advance of the conference.

Transferring Voting Card to Non-Designated Individuals Not Allowed. The voting delegate card may be transferred freely between the voting delegate and alternates, but *only* between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the General Assembly, they may *not* transfer the voting card to another city official.

Seating Protocol during General Assembly. At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.

The voting delegate desk, located in the conference registration area of the Long Beach Convention Center in Long Beach, will be open at the following times: Wednesday, Oct. 16, 8:00 a.m.-6:00 p.m. and Thursday, Oct. 17, 7:30 a.m.-4:00 p.m. On Friday, Oct. 18, the voting delegate desk will be open at the General Assembly, starting at 7:30 a.m., but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for submitting your voting delegate and alternates by Wednesday, Sept. 25. If you have questions, please contact Zach Seals at zseals@calcities.org.

Attachments:

- General Assembly Voting Guidelines
- Information Sheet: Cal Cities Resolutions and the General Assembly

LEAGUE OF CALIFORNIA CITIES

General Assembly Voting Guidelines

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.

2. **Designating a City Voting Representative.** Prior to the Cal Cities Annual Conference and Expo, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the voting delegate form provided to the Cal Cities Credentials Committee.

3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the voting delegate desk in the conference registration area. Voting delegates and alternates must sign in at the voting delegate desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the General Assembly.

4. **Signing Initiated Resolution Petitions**. Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the credentials committee at the voting delegate desk, may sign petitions to initiate a resolution.

5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and voting tool; and be registered with the credentials committee. The voting card may be transferred freely between the voting delegate and alternates but may not be transferred to another city official who is neither a voting delegate nor alternate.

6. **Voting Area at General Assembly.** At the General Assembly, individuals with a voting card will sit in a designated area. Admission to the voting area will be limited to the individual in possession of the voting card and with a special sticker on their name badge identifying them as a voting delegate.

7. **Resolving Disputes**. In case of dispute, the credentials committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the General Assembly.

LEAGUE OF CALIFORNIA CITIES

How it works: Cal Cities Resolutions and the General Assembly

Developing League of California Cities policy is a dynamic process that engages a wide range of members to ensure Cal Cities represents cities with one voice. These policies directly guide Cal Cities' advocacy to promote local decision-making, and lobby against statewide policies that erode local control.

The resolutions process and General Assembly is one way that city officials can directly participate in the development of Cal Cities policy. If a resolution is approved at the General Assembly, it becomes official Cal Cities policy. Here's how resolutions and the General Assembly work.

Prior to the Annual Conference and Expo

General Resolutions

Sixty days before the Annual Conference and Expo, Cal Cities members may submit policy proposals on issues of importance to cities. The resolution must have the concurrence of at least five additional member cities or individual members.

Policy Committees

The Cal Cities President assigns general resolutions to policy committees where members review, debate, and recommend positions for each policy proposal. Recommendations are forwarded to the Resolutions Committee.

During the Annual Conference and Expo

Petitioned Resolutions

The petitioned resolution is an alternate method to introduce policy proposals during the annual conference. The petition must be signed by voting delegates from 10% of member cities, and submitted to the Cal Cities President at least 24 hours before the beginning of the General Assembly.

Resolutions Committee

The Resolutions Committee considers all resolutions. General Resolutions approved[1] by either a policy committee or the Resolutions Committee are next considered by the General Assembly. General resolutions not approved, or referred for further study by both a policy committee and the Resolutions Committee do not go to the General Assembly. All Petitioned Resolutions are considered by the General Assembly, unless disqualified.[2]

General Assembly

During the General Assembly, voting delegates debate and consider general and petitioned resolutions forwarded by the Resolutions Committee. Potential Cal Cities bylaws amendments are also considered at this meeting.

Who's who

Cal Cities policy development is a member-informed process, grounded in the voices and experiences of city officials throughout the state.

The **Resolutions Committee** includes representatives from each Cal Cities diversity caucus, regional division, municipal department, and policy committee, as well as individuals appointed by the Cal Cities president.

Voting delegates are appointed by each member city; every city has one voting delegate.

The **General Assembly** is a meeting of the collective body of all voting delegates —one from every member city.

Seven **policy committees** meet throughout the year to review and recommend positions to take on bills and regulatory proposals. Policy committees include members from each Cal Cities diversity caucus, regional division, and municipal department, as well as individuals appointed by the Cal Cities president.

[1] The Resolution Committee can amend a general resolution prior to sending it to the General Assembly.
[2] Petitioned Resolutions may be disqualified by the Resolutions Committee according to Cal Cities Bylaws Article VI. Sec. 5(f).

For more information visit www.calcities.org/general-assembly

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 10.1**

DATE: September 9, 2024

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Supplemental materials received prior to the meeting.

RECOMMENDED ACTION

SUMMARY

These materials were posted online and made available to the public at the same time that they were distributed to the City Council.

4.0	Open Forum Material: Public Comment
6.1	Hearing to receive and consider protests related to the annual fire hazard abatement program and confirm the 2024 Weed Abatement Program assessments for collection on the County Assessor tax roll. Material: PowerPoint Presentation
6.2	Hearing to consider a request for a Specific Plan Amendment, Planned Development, Site Plan Design Review Modification, and Development Agreement Amendment to modify the 2017 approval for the Arroyo Vista Residential Project to increase the height of the single family detached units from two stories to three stories, remove a pedestrian bridge requirement, and secure community benefits including pocket parks and a financial contribution. Material: PowerPoint Presentation
7.1	Designation of voting delegate and alternates for the 2024 League of California Cities General Assembly. Material: PowerPoint Presentation
8.0	Council Committee Reports and Matters Initiated by City Manager, City Attorney, Staff, and Council Members. Material: Council Reports

DISCUSSION

ATTACHMENTS

1. Supplemental Materials

Prepared by: Helena Graves
Deputy City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

Helena Graves

From: Dawn W[redacted]
Sent: Monday, September 9, 2024 9:58 AM
To: City Clerk
Subject: Save the trees!

Exercise Caution: This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello I am writing in today to talk about the trees in Livermore. I am hoping this will be brought up as a complaint at the city meeting.
We have an infested ash tree next door that is falling apart. Every wind storm a branch falls off of it. Two weekends ago another big branch snapped off and is hanging by a thread now- and there wasn't any wind that day! It is right on the sidewalk on the corner of Pestana and Estates and the home address is [redacted] Estates st. I have written on the 311 site and last week on Tuesday I spoke with someone at the city offices regarding this as well. Nothing has happened. The tree is still there with its branches falling everywhere. This is so dangerous for those walking to school and back and the multiple people I see walking underneath it with their babies, and pets. Also cars driving underneath it are at risk as well. I put up some cation tape around the fallen branch, but would be nice if the city came along and roped off the area.
Not only are these trees a danger- they also infest other trees around them. Livermore has a HUGE problem with mistletoe infesting our trees. Many times they infest trees that have been trimmed wrongly over the years which brings up my next concern- seems anyone these days are calling themselves "tree trimmers". What can the city do to curb these unqualified businesses that say they are qualified to do the job? I see them daily in our neighborhood butchering trees. The trees get stressed out after being hacked and then that opens up the door for mistletoe and other pests to eat away at that tree and then kill it. All the while infesting other trees in the neighborhood. Please what can the city do to help educate the citizens regarding tree trimming and tree removals?!
This house at [redacted] Estates st and hasn't had the home owners or anyone else living in it for over 4 months. Seems they are getting a renovation on the whole house, but yet won't take care of their trees. We are fed up as neighbors. Please have someone take a look at this tree and help us to get it taken down.

Thank you,
Dawn Wantroba
Sent from my iPhone

2024 Fire Hazard Abatement Program

September 9, 2024

Presented by Ryan Rucker, Deputy Chief

CITY OF LIVERMORE CALIFORNIA

1

2024 Fire Hazard Abatement Program

Hearing to receive and consider protests and confirm the 2024 Weed Abatement Program assessments on the County Assessor tax roll.

April 2024 City Council approved Resolution 2024-057 which ordered the abatement of public nuisances, and the abatement costs are the responsibility of the owner

- Starting June 1st, 255 parcels were inspected, 76% found compliant (194 parcels)
- 24% (61 parcels) were non-compliant and a "Notice of Intent to Abate Hazardous Vegetation" was posted at each property
- 1 parcel remained non-compliant
- A final notice was sent by certified mail to the Owner of Record/Current Occupant
- Owners were notified to pay abatement fees up to 5:00 p.m. on September 9, 2024, or a lien will be placed on the FY25/26 tax roll
- Owners were advised of their option to protest at this hearing

CITY OF LIVERMORE CALIFORNIA

2

2024 Fire Hazard Abatement Program

Staff recommends the City Council:

- Consider all protests
- Adopt a resolution overruling protests and confirming the 2024 weed abatement assessments
- Direct staff to file a copy of the assessment report with the County Auditor

CITY OF LIVERMORE CALIFORNIA

3

Arroyo Vista Neighborhood Plan Residential Project Amendment

Specific Plan Amendment (SPPA) 24-002, Planned Development (PD) 24-001, Site Plan Design Review Modification (SPDRM) 24-002, and Development Agreement Amendment (DAA) 24-001

September 9, 2024
Kaitlyn Harrison, Assistant Planner

LIVERMORE CALIFORNIA

1

Site Context and Existing Conditions

A

B

C

LIVERMORE CALIFORNIA

2

Background

LIVERMORE CALIFORNIA

3

Modified Project Description

- Proposes single family building heights of 34-37' and 3 stories
- Removes the pedestrian bridge requirement

- Provides 2 pocket parks
- Provides enhanced pedestrian connectivity
- Provides a financial contribution

LIVERMORE CALIFORNIA

4

Architecture and Design

Ranch

Prairie

Craftsman

LIVERMORE CALIFORNIA

5

Modified Project - Pocket Parks

LIVERMORE CALIFORNIA

6

Planning Commission Modifications

- Authorizing for the Community Development Director to waive two conditions if infeasible
- Enhancements to the street side elevation of corner unit at Arroyo Vista and Las Positas

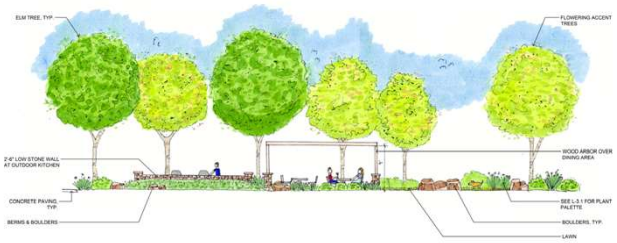
LIVERMORE CALIFORNIA

7

Summary

Planning Commission and Staff support the proposed bridge removal modification:

- Pocket parks create additional open space
- Two additional pathways
- New amenities such as additional benches
- Contribution of $2 million to the Community Benefit Fund and Social Endowment Opportunity Fund



LIVERMORE CALIFORNIA

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Recommendation

The Planning Commission and staff recommend the City Council take the following actions:

- Adopt a resolution certifying the 2024 addendum to the Arroyo Vista Neighborhood Plan Initial Study Mitigated Negative Declaration, as amended, in accordance with CEQA Guidelines Sections 15162 and 15162(a)(3);
- Adopt a resolution approving Specific Plan Amendment (SPPA) 24-002
- Adopt a resolution approving Site Plan Design Review Modification (SPDRM) 24-002; subject to the Conditions of Approval
- Introduce an ordinance and waive the first reading authorizing execution of Planned Development Amendment (PD) 24-001
- Introduce an ordinance and waive the first reading authorizing execution of Development Agreement Amendment (DAA) 24-001
- Direct the Planning Manager to file a Notice of Determination, in accordance with the provisions of the California Environmental Quality Act, subject to project approval.

LIVERMORE CALIFORNIA

9

Designation of Voting Delegate and Alternates for the 2024 League of California Cities General Assembly

September 9, 2024

Presented by Debbie Elam Acting City Clerk

LIVERMORE CALIFORNIA

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League of California Cities General Assembly – Voting Delegate and Alternates

- The League of California Cities' Annual Conference is scheduled for October 16-18, 2024, at the Long Beach Convention Center, including a General Assembly on October 18, 2024.
- To vote on behalf of the City of Livermore during the General Assembly, the City Council must designate a voting delegate and up to two alternates.
- This action must be taken by the City Council and cannot be accomplished by individual action of the Mayor or City Manager.

Staff Recommendation: Staff recommends the City Council appoint one voting delegate and up to two alternates to represent the City of Livermore at the 2024 League of California Cities General Assembly.

LIVERMORE CALIFORNIA

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Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)	Summary of Meeting or Event
Mayor Marchand	7/24/2024	Livermore Valley Chamber of Commerce (LVCC)	Board meeting	Approved monthly financials and provided City update
Mayor Marchand	7/25/2024	Livermore Valley Chamber of Commerce (LVCC)	Wine Country Series	Program on career goals, "Careers by choice not by chance"
Mayor Marchand	7/25/2024	Alameda Country Transportation Commission (ACTC)	Commission meeting	Program updates, currently ACTC is managing 3/4 of a billion dollars in projects.
Mayor Marchand	7/27/2024	Little League Intermediate World Series	Opening Ceremonies	Attended and spoke at the Opening Ceremonies
Mayor Marchand	7/30/2024	City of Livermore	Livermore-Pleasanton City Council Liaison Meeting	Discussed airport issues and complaints.
Mayor Marchand	7/31/2024	Cit of Livermore/Congressman Swalwell	Cyberfraud seminar	Provided guidance to avoid becoming a victim.
Mayor Marchand	8/1/2024	City of Livermore	TV30 Mayor's Report	Provided a City update.
Mayor Marchand	8/1/2024	City of Livermore	Internship Commencement	Attended and spoke at event.
Mayor Marchand	8/1/2024	Lawrence Livermore Lab Foundation	Poster sessions from student participants	Attended and spoke with students about their projects.
Mayor Marchand	8/3/2024	Tri-Valley Non Profit Alliance (TVNPA)	Salud y Sol Community event at May Nissen park	Many nonprofits participated and over 1,100 local residents benefited.
Mayor Marchand	8/6/2024	City of Livermore	National Night Out	Attended 7 neighborhood events, speaking with community members about neighborhood safety.
Mayor Marchand	8/7/2024	Livermore Valley Chamber of Commerce (LVCC)	Business Alliance meeting	Provided City update and heard a presentation on the Livermore Wine Community.
Mayor Marchand	8/8/2024	Real Estate Alliance of Livermore	Information exchange	Provided an update from the City and answered questions
Mayor Marchand	8/8/2024	Livermore Valley Chamber of Commerce (LVCC)	Ribbon-cutting	Ribbon-cutting for Got Scoopz? Provided a Certificate of Welcome
Mayor Marchand	8/10/2024	Livermore Masons	Community gathering	Talked about a future litter abatement program.
Mayor Marchand	8/14/2024	California Water Service	Training	Emergency preparedness training SEMS/NIMS
Mayor Marchand	8/15/2024	City of Livermore	Mayor's Report	Provided update
Mayor Marchand	8/15/2024	Livermore Valley Chamber of Commerce (LVCC)	Ribbon-cutting	Hallway Health
Mayor Marchand	8/17/2024	Las Positas College	Performance	Celebration of the 78th Anniversary of India's Independence
Mayor Marchand	8/19/2024	Council on American-Islamic Relations	Presentation	Recognizing Islamic Appreciation Month
Mayor Marchand	8/21/2024	Livermore Wine Community	Blessing of the Grapes	Blessing of the Grapes
Mayor Marchand	8/21/2024	City of Livermore	Retirement	Honoring the career of Greg Park
Mayor Marchand	8/21/2024	Livermore Valley Chamber of Commerce (LVCC)	Business mixer	Networking with local businesses
Mayor Marchand	8/22/2024	Chamber of Commerce	Annual Tri-Valley Mayors' Summit	Panel discussion

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Mayor Marchand	8/24/2024	Boy Scouts of America	Eagle Scout Court of Honor	Spoke and presented Certificate of Recognition
Mayor Marchand	8/29/2024	Livermore Valley Chamber of Commerce (LVCC)	State of the Nation	Presentation by Congressman Swalwell
Mayor Marchand	8/29/2024	Innovation Tri-Valley	State of the Tri-Valley	Panel discussions and networking
Mayor Marchand	8/30/2024	City of Livermore	Ribbon-cutting	BEAM solar installation
Mayor Marchand	8/31/2024	S.F. Caledonian Club	Largest Highland Gathering and Games in Country	Attended
Mayor Marchand	9/3/2024	City of Livermore	Retirement	Lt. Josh Radcliffe's retirement
Mayor Marchand	9/5/2024	City of Livermore	TV30 Mayor's Report	Provided a City update
Mayor Marchand	9/5/2024	City of Livermore	Key to the City	Spoke about the history of Livermore
Mayor Marchand	9/6/2024	San Joaquin Regional Rail Commission	Commission Meeting	Received updates and approved contracts.
Mayor Marchand	9/6/2024	Open Heart Kitchen	Annual Gala	Fund-raising gala to support Open Heart Kitchen
Mayor Marchand	9/7/2024	City of Livermore	Community Service Day	Joined over 500 residents to work on projects throughout the City
Mayor Marchand	9/8/2024	Holy Cross Lutheran School	50-year anniversary	Presented a Mayor's Certificate recognizing the 50-year anniversary
Mayor Marchand	9/9/2024	Livermore-Amador Valley Transit (LAVTA)	Board meeting	Approved the Treasurer's report and the remote work policy. Received updates

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)
Vice Mayor Carling	7/30/2024	Livermore-Pleasanton City Council Liaison Meeting	
Vice Mayor Carling	8/1/2024	City of Livermore	Summer intern commencement at LPD community room
Vice Mayor Carling	8/3/2024	Tri-Valley Non Profit Alliance (TVNPA)	Salud y Sol - End of Summer Health BBQ at May Nissen Park
Vice Mayor Carling	8/6/2024	City of Livermore	National Night Out
Vice Mayor Carling	8/21/2024	Livermore Wine Community	Blessing of the Grapes
Vice Mayor Carling	8/21/2024	Livermore-Amador Valley Water Management Agency (LAVWMA)	Board meeting
Vice Mayor Carling	8/22/2024	Chamber of Commerce	Annual Tri-Valley Mayors' Summit
Vice Mayor Carling	8/29/2024	Livermore Valley Chamber of Commerce (LVCC)	Wine Country Luncheon
Vice Mayor Carling	8/30/2024	City of Livermore	EV charger ribbon cutting with Department of Energy
Vice Mayor Carling	9/7/2024	City of Livermore	Community Service Day-worked at Marylin Avenue School

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)	Summary of Meeting or Event
Council Member Barrientos	8/28/2024	Intergovernmental Committee Meeting (City of Livermore, Livermore Area Recreations and Parks District (LARPD), Livermore Valley Joint Unified School District (LVJUSD)	Committee Meeting	Discussed cell phone usage in schools. Communication boards
Council Member Barrientos	8/3/2024	City of Livermore	Salud y Sol community event with several organizations represented	The event was well attended with food served by Open Heart Kitchen, awards and speakers.
Council Member Barrientos	8/6/2024	City of Livermore	Planning Commission meeting	Update on the Garaventa Hills development
Council Member Barrientos	8/29/2024	Livermore Valley Chamber of Commerce (LVCC)	Wine Country Luncheon	Congressman Swalwell provided updates happening in Congress. Summarized the millions of dollars allocated to our area
Council Member Barrientos	8/29/2024	Tri Valley	Meeting of the Tri Valley governments with sponsors present	Several speakers addressing the innovative activities in each city
Council Member Barrientos	8/30/2024	City of Livermore	Ribbon cutting	Beam, a government program to bring green energy via car chargers developed and designed by Beam
Council Member Barrientos	9/7/2024	City of Livermore	Community Service Day	I spent several hours along with Sarah, Cindy and Tony spreading 2 yards of dirt in the dog park at Marlin Park
Council Member Barrientos	9/7/2024	Livermore Valley Performing Arts (Livermore Valley Arts)	Gala Fundraiser	The yearly fundraiser for the arts in Livermore

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)
Council Member Branning	9/7/2024	City of Livermore	Livermore Community Service Day
Council Member Branning	9/2/2024	Livermore-Amador Valley Transit (LAVTA)	Projects and Services Committee Meeting
Council Member Branning	8/28/2024	Livermore-Amador Valley Water Management Agency (LAVWMA)	Board Meeting
Council Member Branning	8/28/2024	Intergovernmental Committee Meeting (City of Livermore, Livermore Area Recreations and Parks District (LARPD), Livermore Valley Joint Unified School District (LVJUSD)	Committee Meeting
Council Member Branning	8/20/2024	Livermore Downtown Inc (LDI)	Board Meeting
Council Member Branning	8/5/2024	Livermore-Amador Valley Transit (LAVTA)	Board Meeting
Council Member Branning	8/6/2024	City of Livermore	National Night Out
Council Member Branning	8/3/2024	Tri-Valley Non Profit Alliance (TVNPA)	Salud Y Sol
Council Member Branning	9/9/2024	Livermore-Amador Valley Transit (LAVTA)	Board Meeting