LIVERMORE
CALIFORNIA

CITY COUNCIL

AGENDA
MONDAY, NOVEMBER 27, 2023

REGULAR MEETING – 7:00 PM

CLOSED SESSION - 6:30 PM
MEETING PARTICIPATION INFORMATION CAN BE FOUND AT THE END OF THE AGENDA

IN PERSON INFORMATION:
CIVIC CENTER MEETING HALL
CITY COUNCIL CHAMBERS
1016 S. LIVERMORE AVENUE

ZOOM IS CURRENTLY SUSPENDED UNTIL FURTHER NOTICE

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

TV29:
Comcast TV Channel 29
tv29live.org

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

1. CLOSED SESSION - 6:30 PM

- Roll Call
- Opportunity for the the Public to Address City Council Regarding Closed Session Items
- Adjourn to Closed Session

Note: This Closed Session my be continued to the end of the Regular Meeting.

1.1 Conference with Real Property Negotiator. To meet with Steve Stewart Planning Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase, sale, exchange, or lease of real property at Assessor's Parcel No. 99B-5680-4 and 99B-5680–20. The City negotiators may negotiate with Daniel Buffington, Realtor, on behalf of the Brooks Beverly J Trust & House, Doris E. The instructions will concern price and terms of payment.

1.2 Conference with Real Property Negotiator. To meet with Steve Stewart Planning Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase, sale, exchange, or lease of real property at Assessor's Parcel No. 99B-5685-12. The City negotiators may negotiate with Daniel Buffington, Realtor, on behalf of Mike Fuller Motorsports Inc. The instructions will concern price and terms of payment.

1.3 Conference with Real Property Negotiator. To meet with Steve Stewart Planning Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase, sale, exchange, or lease of real property at Assessor's Parcel No. 905-3-12. The City negotiators may negotiate with Sara Rieck and Michael Reeves, on behalf of the East Bay Regional Park District.

1.4 Conference with Real Property Negotiator. To meet with Steve Stewart Planning Manager and Andy Ross Economic Development Manager, the City's negotiators pursuant to Government Code section 54956.8, regarding the purchase, sale, exchange, or lease of real property at Assessor's Parcel No. 902-9-3-2 and 902-9-3-1. The City negotiators may negotiate with Richard Kulka, owner on behalf of Hartford Hills Estates Ltd. The instructions will concern price and terms of payment.

2. CALL TO ORDER

ROLL CALL

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

PLEDGE OF ALLEGIANCE

REPORT OF ACTION TAKEN IN CLOSED SESSION

3. PROCLAMATIONS AND PRESENTATIONS

3.1 Beautification Committee annual update presented by Vice Chair, Mark Goralka.

Recommendation:
Staff recommends City Council accept the Beautification Committee annual update.

Staff Report

3.2 Presentation of the 2023 Beautification Awards.

Recommendation:
Staff recommends City Council accept the Beautification Committee Awards presentation.

Staff Report

3.3 Livermore Valley Wine Heritage District annual update presented by Brandi Lombardi, Executive Director, Livermore Valley Winegrowers Association.

Recommendation:
Staff recommends City Council accept the Livermore Valley Wine Heritage District annual update.

Staff Report

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 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 - October 9, 2023 and October 23, 2023 Regular Meetings.

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

Staff Report
Attachments:
1. 2023-10-09 Draft Minutes
2. 2023-10-23 Draft Minutes

5.2 Resolution authorizing the execution of an agreement with Milliken Services, LLC to replace carpet throughout the Civic Center Library, in an amount not-to-exceed $430,163.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the execution of an agreement with Milliken Services, LLC to replace carpet throughout the Civic Center Library in an amount not-to-exceed $430,163.

Staff Report
Attachments:
1. Cooperative Purchasing Contract
2. Resolution
3. Exhibit A - Agreement

5.3 Resolution approving the application and authorizing the execution of a Project and Program Grant Agreement with Livermore Art Association for the Spring Arts Program, consistent with the City's Public Art Policy in an amount not-to-exceed $5,800.

Recommendation:
The Commission for the Arts and staff recommend the City Council adopt a resolution approving the application and authorizing the execution of the Project and Program Grant Agreement with Livermore Art Association (LAA) in the amount of $5,800 for the LAA Spring Arts Program.

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

5.4 Resolution authorizing execution of a first amendment to the agreement with Cannon Corporation for programming support during construction of the City of Livermore Water Reclamation Plant Primary and Secondary Treatment Improvements Project No. 2019-31, increasing the not-to-exceed contract amount from $112,900 to $231,026.

Recommendation:
Staff recommends the City Council adopt a resolution authorizing the City Manager to execute the first amendment to the agreement with Cannon Corporation increasing the not-to-exceed contract amount from $112,900 to $231,026 for additional programming support services during construction of the City of Livermore Water Reclamation Plant (WRP) Primary and Secondary Treatment Improvements, Project No. 2019-31.

Staff Report

Attachments:

1. Site Plan
2. Resolution
3. Exhibit A - First Amendment to Agreement with Cannon Corporation

5.5 Resolution authorizing the City Manager to execute a second amendment to the agreement with Raney Planning and Management, Inc. to provide on-call environmental review services, increasing the compensation by $100,000 for a total not-to-exceed contract amount of $300,000 and extending the term to September 27, 2025.

Recommendation:

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a second amendment to the agreement with Raney Planning and Management, Inc. to provide on-call environmental review services, increasing the compensation by $100,000 with a not-to-exceed amount of $300,000 and extending the term to September 27, 2025.

Staff Report

Attachments:

1. Resolution
2. Exhibit A - Second Amendment with Raney Planning and Management, Inc.

5.6 Resolution accepting the Livermore Valley Wine Heritage District 2021-2022 Annual Report and the Livermore Valley Wine Heritage District 2022-2023 Annual Report.

Recommendation:

Staff recommends the City Council adopt a resolution accepting the Livermore Valley Wine Heritage District 2021-2022 Annual Report and the Livermore Valley Wine Heritage District 2022-2023 Annual Report.

Staff Report

Attachments:

1. Resolution
2. Exhibit A - Livermore Valley Wine Heritage District 2021-2022 Annual Report
3. Exhibit B - Livermore Valley Wine Heritage District 2022-2023 Annual Report

5.7 Resolution accepting public improvements constructed pursuant to the Subdivision Improvement Agreement for Tract Map 8173 located at 2855 Old First Street for the construction of 17 single family residential homes by Concentric Development Group, Inc. for permanent maintenance and authorizing release of security.

Recommendation:

Staff recommends the City Council adopt a resolution accepting public improvements constructed pursuant to the Subdivision Improvement Agreement for Tract Map 8173 located at 2855 Old First Street for the construction of 17 single family residential homes by Concentric Development Group, Inc. for permanent maintenance and authorizing release of security.

Staff Report

Attachments:

1. Vicinity Map
2. 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 consider amending the Livermore Municipal Code Chapter 5.90 Short-Term Rentals, Section 5.90.050 Locations, to allow accessory dwelling units with building permits issued prior to January 1, 2020, to be used as short-term rentals.

Recommendation:

Staff recommends that the City Council do the following:

1. Adopt a resolution finding the project is exempt from the California Environmental Quality Act; and
2. **Introduce an ordinance** and waive the first reading, amending Chapter 5.90 Short-Term Rentals, Section 5.90.050 of the Livermore Municipal Code, allowing accessory dwelling units with building permits issued prior to January 1, 2020, to be used as short-term rentals.

Staff Report

Attachments:

1. Resolution
2. Ordinance

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 Resolution accepting the Altamont Landfill Open Space Committee's recommendation to expend funds for a grant to allow the California Rangeland Trust in the amount of $145,810 for the purchase of a 120-acre conservation easement on a portion of the of the 160-acre Diranne Ranch (DC Ranch) located in Eastern Alameda County.

Recommendation:

Staff recommends the City Council adopt a resolution accepting the Altamont Landfill Open Space Committee's proposed expenditure of $145,810 of Altamont Open Space Funds for the purpose of funding the grant request of the California Rangeland Trust to purchase and manage a 120-acre conservation easement on the 160-acre Diranne Ranch (DC Ranch) located in Eastern Alameda County and finding the request is consistent with the Altamont Landfill Settlement Agreement.

Staff Report

Attachments:
1. Staff Analysis
2. Location Maps
3. Resolution
4. Exhibit A to Resolution - California Rangeland Trust Grant Application

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, December 11, 2023 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

10. SUPPLEMENTAL MATERIALS

10.1 Supplemental materials.

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. 3.1**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Beautification Committee annual update presented by Vice Chair, Mark Goralka.

RECOMMENDED ACTION

Staff recommends City Council accept the Beautification Committee annual update.

SUMMARY

DISCUSSION

ATTACHMENTS

Prepared by: Laurie Tobias
Senior Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 3.2**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Presentation of the 2023 Beautification Awards.

RECOMMENDED ACTION

Staff recommends City Council accept the Beautification Committee Awards presentation.

SUMMARY

DISCUSSION

ATTACHMENTS

Prepared by: Laurie Tobias
Senior Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 3.3**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Brandon Cardwell, Innovation and Economic Development Director

SUBJECT: Livermore Valley Wine Heritage District annual update presented by Brandi Lombardi, Executive Director, Livermore Valley Winegrowers Association.

RECOMMENDED ACTION

Staff recommends City Council accept the Livermore Valley Wine Heritage District annual update.

SUMMARY

DISCUSSION

ATTACHMENTS

Prepared by: Theresa De La Vega
Management Analyst

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE
CALIFORNIA

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

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Approval of draft minutes - October 9, 2023 and October 23, 2023 Regular Meetings.

RECOMMENDED ACTION

Staff recommends the City Council approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 2023-10-09 Draft Minutes
2. 2023-10-23 Draft Minutes

Prepared by: Marie Weber
Deputy City Manager/City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

MINUTES

LIVERMORE
CALIFORNIA

CITY COUNCIL
OCTOBER 9, 2023

CLOSED SESSION

CALL TO ORDER – The Closed Session of the City Council was called to order by Mayor John Marchand at 5:00 pm, held in person at 1016 S. Livermore Avenue and YouTube (listen and view only).

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

Absent: Vice Mayor Kiick

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

Mayor Marchand opened the public comment period.

There were no more speakers and the hearing was closed.

1. ADJOURN TO CLOSED SESSION

1.1 Public Employee Performance Evaluation. Annual evaluation of City Attorney, pursuant to Government Code section 54957.

1.2 Public Employee Performance Evaluation. Annual evaluation of City Manager, pursuant to Government Code section 54957.

1.3 Conference with Labor Negotiator. To meet with Mayor Marchand and Vice Mayor Kiick, the City's negotiators, pursuant to Government Code section 54957.6 regarding negotiations for salary and compensation for Unrepresented Employee – City Attorney.

1.4 Conference with Labor Negotiator. To meet with Mayor Marchand and Vice Mayor Kiick, the City's negotiators, pursuant to Government Code section 54957.6 regarding negotiations for salary and compensation for Unrepresented Employee – City Manager.

REGULAR MEETING

2. CALL TO ORDER – The meeting of the City Council was called to order by Mayor John Marchand at 7:00 pm, held in person at 1016 S. Livermore Avenue and YouTube (listen and view only).

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

PLEDGE OF ALLEGIANCE

REPORT OF ACTION TAKEN IN CLOSED SESSION

Mayor Marchand said there was no reportable action.

3. PROCLAMATIONS AND PRESENTATIONS

3.1 Confirm Advisory Body appointments to the Airport Commission, Livermore Housing Authority, and the Human Services Commission and direct the City Clerk to administer the oath of office.

Livermore Airport Commission (Pilot)
Reappointment to a regular term ending November 1, 2027.

- Darin Bishop

Livermore Housing Authority (At-Large)
Reappointment to a regular term ending January 1, 2028

- Marvin Evans

Appointment to a regular term ending January 1, 2028

- Carla Welch

Human Services Commission
Reappointment to a regular term ending November 1, 2027

- Elizabeth McWhorter
- Umashankar Meda
- Marti Sutton

Appointment to a regular term ending November 1, 2027

- Maxwell Nelson
- Ashley Onadele

ON THE MOTION OF COUNCIL MEMBER CARLING, SECONDED BY VICE MAYOR KIICK AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL CONFIRMED THE APPOINTMENTS.

Deputy City Manager/City Clerk Marie Weber administered the oath of office.

4. OPEN FORUM

Mayor Marchand opened the public comment period.

Greg Scott, provided a comment.

David McGuigan, provided a comment.

Marti Sutton, Tri-Valley Non-Profit Alliance, provided a comment.

Donna Cabanne, provided a comment.

Jean King, provided a comment.

John Stein, provided a comment.

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

5. CONSENT CALENDAR

Mayor Marchand opened the public comment period.

Item 5.10 **Greg Scott**, provided a comment.

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

ON THE MOTION OF VICE MAYOR KIICK, SECONDED BY COUNCIL MEMBER CARLING AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL APPROVED THE CONSENT CALENDAR.

5.1 Approval of draft minutes - September 11, 2023 Regular Meeting.

5.2 **Adoption of Ordinance 2148** amending Section 1.04.010 Definitions and Rules of Construction in Title 1 General Provisions in the Livermore Municipal Code to define the Superintendent of Streets.

5.3 **Introduce an Ordinance** and waive the first reading, amending section 11.08.010 Definitions and section 11.08.080 Hangar Waiting Lists of Chapter 11.08 Airport Rules and Regulations of the Livermore Municipal Code.

5.4 **Resolution 2023-170** authorizing the execution of an agreement with SmartWave Technologies, LLC to install and maintain a wireless Internet infrastructure throughout several City Facilities in an amount not-to-exceed $300,000.

5.5 **Resolution 2023-171** authorizing execution of a third amendment to the agreement with West Coast Arborists, Inc. for tree and shrub pruning and maintenance services for a total not-to-exceed amount of $994,000.

5.6 Resolution 2023-172 authorizing the City Manager to execute an agreement between the Livermore Pleasanton Fire Department (LPFD) and the Department of Veteran Affairs (VA) to provide emergency and fire protection services for the Veterans Administration Livermore Medical Center through October 31, 2024, and authorizing the City Manager to enter into a Revenue Sharing Agreement with the City of Pleasanton for Fire Services provided to the Veterans Affairs Livermore Medical Center.

5.7 Resolution 2023-173 authorizing acceptance of funds in the amount of $50,230, for a State of California Department of Alcoholic Beverage Control grant in Fiscal Year 2023-24 and authorizing the City Manager to execute the grant agreement.

5.8 Resolution 2023-174 authorizing acceptance of $100,000 in grant funds from the California Office of Traffic and Safety (OTS) for Extrication Equipment, authorizing the execution of a grant agreement with OTS, appropriating $100,000 in the Equipment Replacement Fund for Fiscal Year 2023-24, and authorizing the purchase of Extrication Systems from L.N. Curtis and Sons.

5.9 Resolution 2023-175 approving amendments to the City's Other Post Employment Benefits (OPEB) Policy to ensure the City does not over-fund its OPEB obligations.

5.10 Resolution 2023-176 authorizing participation in the PARS Section 115 Post-Employment Benefits Trust Program to be administered by Public Agency Retirement Services (PARS) and U.S. Bank to help fund the City's Pension and Other Post Employment Benefits (OPEB)

6. PUBLIC HEARINGS – NONE

7. MATTERS FOR CONSIDERATION

7.1 Discussion of staff's response to the Municipal Services Review Survey administered by the Alameda County Local Agency Formation Commission including a proposed amendment to Livermore's Sphere of Influence; and direction on conducting a citywide poll to reaffirm Livermore's interests to preserve open space and scenic corridor above highway 580.

Recommendation: Staff recommended the City Council:
1. Receive information regarding a potential amendment to Livermore's Sphere of Influence related to the Municipal Services Review Survey response to the Alameda County Local Agency Formation Commission; and
2. Direct staff to conduct a citywide poll to reaffirm Livermore's interests to preserve open space and scenic corridor above highway 580.

Senior Planner Ashley Vera presented the staff report.

Mayor Marchand opened the public comment period.

Donna Cabanne, provided a comment.

Jean King, Friends of Livermore, provided a comment.

Michael McCorriston, Vice Mayor, City of Dublin, provided a comment on behalf of Mayor Melissa Hernandez, City of Dublin.

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

ON THE MOTION OF VICE MAYOR KIICK, SECONDED BY COUNCIL MEMBER BRANNING, AND CARRIED ON A 5-0 VOTE, THE CITY COUNCIL APPROVED STAFF'S RECOMMENDATION.

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.

Tree Inventory City Council requested an update on the City tree inventory.

Bridging of the Gap, Tri-Valley Non-Profit Alliance Anti-Povery Collaborative, Council Member Carling noted his attendance at the event on October 5, 2023.

Homelessness and Guaranteed Income City Council requested the Human Services Commission and staff explore opportunities for leadership in the areas of homelessness and guaranteed income.

Livermore Amador Valley Transit Authority (LAVTA) Vice Mayor Kiick noted her attendance at the board meetings on September 11, 2023 and October 2, 2023.

Quest Science Center presentation of the film A Million Miles Away, Mayor Marchand noted his attendance on September 24, 2023.

34th Annual Altamont Cruiser Car Show Mayor Marchand noted his attendance at the event on September 24, 2023.

Bay Area Urban Manufacturers Mayor Marchand noted his attendance at the kick-off event recognizing Bay Area Manufacturers.

9. ADJOURNMENT – at 8:06 pm to a Special City Council Meeting on Monday, October 16, 2023 at 5:00 pm and a Regular City Council Meeting on Monday, October 23, 2023 at 7:00 pm, in the Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

APPROVED: _____
JOHN P. MARCHAND, MAYOR

ATTEST: _____
MARIE WEBER, CITY CLERK

MINUTES

LIVERMORE
CALIFORNIA

CITY COUNCIL
OCTOBER 23, 2023

CLOSED SESSION

CALL TO ORDER – The Closed Session of the City Council was called to order by Mayor John Marchand at 6:30 pm, held in person at 1016 S. Livermore Avenue and YouTube.

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

Absent: Vice Mayor Brittni Kiick.

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

Mayor Marchand opened the public comment period.

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

1. ADJOURN TO CLOSED SESSION

1.1 Conference with Legal Counsel - Anticipated Litigation. To meet with legal counsel pursuant to Government Code section 54956.9(d)(4) to decide whether to initiate litigation based on existing facts and circumstances. (One case)

REGULAR MEETING

2. CALL TO ORDER – The meeting of the City Council was called to order by Mayor John Marchand at 7:00 pm, held in person at 1016 S. Livermore Avenue and YouTube.

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

Absent: Vice Mayor Brittni 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 Human Services Commission Annual Update presented by Jon Orellana, Chair, Livermore Human Services Commission.

Jon Orellana, Livermore Human Services Commission Chair presented the annual update.

3.2 Proclamation recognizing October as Domestic Violence Awareness Month presented to Tri- Valley Haven Executive Director, Christine Dillman.

Mayor Marchand presented a proclamation to Christine Dillman, Tri-Valley Haven Executive Director declaring October as Domestic Violence Awareness Month.

4. OPEN FORUM

Mayor Marchand opened the public comment period.

Greg Scott, provided a comment.

Donna Cabanne, provided a comment.

Orlando Munoz, provided a comment.

Karl Wente, provided a comment.

Lisa Tromovitch, SPARK Theater, provided a comment.

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

5. CONSENT CALENDAR

Mayor Marchand re-ordered the agenda and moved Item 5.15 from the Consent Calendar for separate discussion and action after item 7.2.

Mayor Marchand opened the public comment period.

Karl Wente, provided a comment.

Item 5.16 Greg Scott provided a comment.

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

ON THE MOTION OF COUNCIL MEMBER BRANNING, SECONDED BY COUNCIL MEMBER CARLING AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL APPROVED THE CONSENT CALENDAR WITH THE EXCEPTION OF ITEM 5.15.

ON THE MOTION OF COUNCIL MEMBER CARLING, SECONDED BY COUNCIL MEMBER BRANNING, AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL APPROVED CONSENT CALENDAR ITEM 5.15

5.1 Approval of draft minutes - September 25, 2023 Regular Meeting.

5.2 Adopt Ordinance 2149 amending section 11.08.010 Definitions and section 11.08.080 Hangar Waiting Lists of Chapter 11.08 Airport Rules and Regulations of the Livermore Municipal Code.

5.3 Introduce an ordinance and waive the first reading, adding Chapter 8.21 Summary Abatement of Graffiti to the Livermore Municipal Code.

5.4 Introduce an omnibus ordinance and waive the first reading to adopt modifications to the Livermore Municipal Code and the Livermore Development Code.

5.5 Resolution 2023-177 authorizing supplemental appropriations in the amount of $535,000 to Fiscal Year 2023-24 and $250,000 to Fiscal Year 2024-25 and awarding and authorizing execution of an agreement with Redgwick Construction Company, in an amount not-to-exceed $1,849,844, for construction of the Railroad Avenue Street Improvements Project No. 2021-16.

5.6 Resolution 2023-178 approving an exception to the Livermore Municipal Code bidding requirement and authorizing sole sourcing specific brands of equipment and instruments for the construction of the Water Reclamation Plant (WRP) UV Treatment System Replacement Project No. 2021-28.

5.7 Resolution 2023-179 approving an exception to the Livermore Municipal Code bidding requirements and authorizing sole sourcing specific brands of equipment and instruments for the construction of the Airway Pump Station Improvements Project No. 2021-30.

5.8 Resolution 2023-180 authorizing execution of a Low-Income For Sale Housing Agreement with TH Arroyo Vista, LLC, for a 435-unit subdivision located in the Arroyo Vista neighborhood, generally to the east and north of Las Positas Road, south of Arroyo Vista Road, west of Bennett Drive and bisected by the Arroyo Seco channel intersection (VTTM 8379).

5.9 Resolution 2023-181 approving allocation of the Tourism and Special Event Grant monies for July 1, 2023-June 30, 2024, and authorizing the execution of grant agreements with Altamont Cruisers, Livermore Valley Opera, Quest Science Center, Rotary Club of Livermore, and Shakespeare's Associates, Inc. in the amount of $2,000 each.

5.10 Resolution 2023-182 authorizing a First Amendment to the agreement with PlaceWorks, Inc. for the Comprehensive General Plan and Housing Element

Update, increasing the scope of work and the not-to-exceed amount from $2,800,000 to $3,026,000 and extending the term to December 31, 2025.

5.11 Resolution 2023-183 authorizing execution of the second amendment to the agreement with Ruggeri- Jensen-Azar for on-call engineering design services increasing the not-to-exceed contract amount from $1,200,000 to $1,800,000 and extending the term of the agreement one year to December 31, 2024.

5.12 Resolution 2023-184 authorizing execution of an agreement with Avenu Insights & Analytics, LLC for business license and tobacco retail license services in an amount not-to-exceed $450,000 for administration services and $250,000 per account for discovery/recovery and deficiency audit services.

5.13 Resolution 2023-185 authorizing execution of a purchase order with Asana, Inc. for the purchase of 250 Asana Enterprise Licenses in an amount not-to-exceed $219,000.

5.14 Resolution 2023-186 accepting the FY 2022-23 Year-end Budget Report, allocating the General Fund budget surplus for various purposes, and appropriating additional budget to those funds that ended FY 2022-23 with expenditures in excess of budget.

ITEM 5.15 WAS MOVED BY THE MAYOR TO BE HEARD AFTER ITEM 7.2

5.16 Resolution 2023-187 of continued local emergency in response to impacts from a series of severe storm events earlier this year.

6. PUBLIC HEARINGS

6.1 Hearing to consider the Housing and Human Services needs and Housing and Human Services Grant Priorities for Fiscal Year 2024-25.

Recommendation: The Human Services Commission and staff recommend the City Council adopt a resolution approving the Housing and Human Services Grant Priorities for Fiscal Year 2024-25.

Management Analyst I Amy Walker presented the staff report.

Mayor Marchand opened the public hearing.

Greg Scott, provided a comment.

Alan Burnham, provided a comment.

Karl Wente, provided a comment.

There were no more speakers and the hearing was closed.

ON THE MOTION OF COUNCIL MEMBER BRANNING, SECONDED BY

COUNCIL MEMBER BARRIENTOS AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTION.

Resolution 2023-188 approving the Housing and Human Services Grant Priorities for Fiscal Year 2024-25.

7. MATTERS FOR CONSIDERATION

Mayor Marchand requested that both Items 7.1 and 7.2 be heard together.

7.1 Resolution approving an amended and restated employment contract with the City Manager.

Recommendation: The Evaluation Subcommittee recommends the City Council adopt a resolution approving an amended and restated employment contract with the City Manager.

7.2 Resolution approving an amended and restated employment contract with the City Attorney.

Recommendation: The Evaluation Subcommittee recommends the City Council adopt a resolution approving an amended and restated employment contract with the City Attorney.

Administrative Services Director Tina Olson presented the staff report.

Mayor Marchand opened the public comment period.

Karl Wente provided a comment for Items 7.1 and 7.2.

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

ON THE MOTION OF COUNCIL MEMBER CARLING SECONDED BY COUNCIL MEMBER BARRIENTOS AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL ADOPTED THE FOLLOWING RESOLUTIONS FOR ITEMS 7.1 AND 7.2.

Resolution 2023-189 approving an amended and restated employment contract with the City Manager

Resolution 2023-190 approving an amended and restated employment contract with the City Attorney

5.15 Resolutions approving amendments to the City of Livermore Salary Plan, adding 1.0 full time Regular Employee position, approving a 5% salary adjustment for members of the Police Officer's Association, Police Management Association, and the Police Chief, and confirming approval of a one-time 2% payment to members of the Association of Livermore Employees, Livermore Management Group, Livermore Management Confidential Employees, Livermore

Confidential Employees and Livermore Executive Management Employees.

Mayor Marchand opened the public comment period.

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

ON THE MOTION OF COUNCIL MEMBER CARLING, SECONDED BY COUNCIL MEMBER BRANNING, AND CARRIED ON A 4-0 VOTE, THE CITY COUNCIL APPROVED CONSENT CALENDAR ITEM 5.15.

Resolution 2023-191 - 2023 Salary Plan:
1. Approving the November 2023 Salary Plan to incorporate wage adjustments for the City Manager, City Attorney, and Executive Management employees;
2. Authorizing an increase in the salary range for the Airport Manager;
3. Authorizing the allocation of an additional 1.0 full time Regular Employee position for the Innovation and Economic Development Department; and,
4. Authorizing the City Manager to make annual salary and cost of living adjustments for the Executive Management employees that are the same as the annual adjustments to the Livermore Management Group.

Resolution 2023-192 - 2024 Salary Plan:
1. Approving the January 2024 Salary Plan to incorporate a 5% base salary adjustment to the classifications in the Livermore Police Officer's Association, Livermore Police Management Association, and the Police Chief, effective January 1, 2024.

Resolution 2023-193 - Lump Sum:
1. Approving a one-time 2% of base salary lump sum bonus for the following employees who are employed by the City as of January 1, 2024: the employees in the Livermore Association of Employees group, Executive Management employees (excluding the Police Chief), employees in the Livermore Management Group management confidential employees, and confidential employees.

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.

Livermore Valley Vintners Collected CM Branning reported his attendance at several Vintners events and encourage others to attend in 2024.

Fire Department Response CM Carling and CM Barrientos commended the Fire Department on their response to the fire at the property adjacent to The Well

on Concannon Blvd.

Art Walk CM Carling, CM Barrientos, and Mayor Marchand noted their attendance at the event on October 14, 2023.

Compost Giveaway CM Carling noted his attendance on October 14, 2023.

Altamont Landfill Community Monitor Committee CM Barrientos noted his attendance on October 11, 2023.

Intergovernmental Meeting CM Barrientos noted his attendance on October 12, 2023.

East Bay Community Choice Energy CM Barrientos noted his attendance at the Marketing Committee meeting on October 16, 2023, and that the agency's name has been changed to AVA Community Energy.

Trails Committee CM Barrientos noted his attendance.

East Bay Community Choice Energy CM Barrientos noted his attendance at the Board of Directors meeting on October 18, 2023.

Seniors in Retirement CM Barrientos noted his attendance on October 19, 2023.

St. Mary's Jacobite Syriac Orthodox Church CM Barrientos noted his attendance at the Family Night event on October 21, 2023.

City Council instructed staff to require the sale of unleaded fuel at the airport and that it be added to the minimum standards.

9. ADJOURNMENT – at 8:37 pm to a Regular City Council meeting on Monday, November 13, 2023 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

APPROVED: _____
JOHN P. MARCHAND, MAYOR

ATTEST: _____
MARIE WEBER, DEPUTY CITY MANAGER/ CITY CLERK

LIVERMORE
CALIFORNIA

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

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Judy Erlandson, Acting Public Works Director

SUBJECT: Resolution authorizing the execution of an agreement with Milliken Services, LLC to replace carpet throughout the Civic Center Library, in an amount not-to-exceed $430,163.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the execution of an agreement with Milliken Services, LLC to replace carpet throughout the Civic Center Library in an amount not-to-exceed $430,163.

SUMMARY

The carpet throughout the Civic Center Library is almost 20 years old and is showing signs of wear and tear and staining in many areas, primarily in areas open to the public. Based on visual inspection, staff has determined that the carpet is at the end of its useful life and needs to be replaced. Milliken Services, LLC holds a competitively bid cooperative purchasing agreement for flooring products and services available to member agencies of OMNIA Partners of which the City is a member.

DISCUSSION

The replacement of the carpet throughout the Civic Center Library would eliminate potential safety hazards as a result of heavy use. The carpet that was installed in the Civic Center Library almost 20 years ago was installed in roll form, meaning a large section would need to be removed to repair a small area that is affected. Staff recommends the new carpet installation be done using carpet tiles. This will save the City money in the future, because maintenance staff will be able to replace any areas that show wear and tear or staining rather than having to hire a contractor. Staff will maintain a stock of carpet tiles for replacement purposes, further saving the City money. New carpet would also be considered more visually appealing to staff and the public. The project is scheduled to occur in December once the agreement is approved.

Milliken Services, LLC holds a cooperative purchasing agreement #2020002150 through OMNIA Partners for flooring products and services. The purchasing agreement is open to OMNIA Partner

members of which the City is a member. Livermore Municipal Code Section 2.68.370 permits the formal bidding procedure for supplies, equipment, and general services to be dispensed with when purchased through a cooperative purchasing arrangement.

FISCAL AND ADMINISTRATIVE IMPACTS

This carpet replacement for City buildings project (2015-16) is part of the Capital Improvement Plan for FY 2023-24 and funds will be provided from the Facilities Rehabilitation Program (Fund 740).

COMMUNITY PILLAR

5: A City That Works

GOAL

14: Develop and maintain the City's infrastructure, facilities, and property

ATTACHMENTS

1. Cooperative Purchasing Contract
2. Resolution
3. Exhibit A - Agreement

Prepared by: Marisa Gan
Acting Public Works Manager

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director

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UNIVERSITY OF CALIFORNIA

Purchasing Agreement 2020002150

As a result of Request for Proposal #001225-May2019 (University of California Systemwide Flooring), the Agreement to furnish certain goods and services described herein and in the documents referenced herein ("Goods and/or Services") is made by and between The Regents of the University of California, a California public corporation ("UC") on behalf of the University of California, and Milliken Services, LLC ("Supplier"). This Agreement is binding only if it is negotiated and executed by an authorized representative with the proper delegation of authority.

1. Statement of Work

Supplier agrees to perform the Services listed in the statement of work attached as Attachment A ("Statement of Work") and any other documents referenced in the Incorporated Documents section herein, at the prices set forth in the Statement of Work and any other documents referenced in the Incorporated Documents section herein. Unless otherwise provided in the Agreement, UC will not be obligated to purchase a minimum amount of Goods and/or Services from Supplier.

2. Term of Agreement/Termination

A) The initial term of the Agreement will be from April 15th, 2020 through April 14th, 2025 (Initial Term) and is subject to earlier termination as provided below. UC may renew the Agreement for **Five (5)** successive One (**1**)-year periods (each, a Renewal Term), by providing Supplier with at least Thirty (**30)** calendar days' written notice before the end of the Initial Term or any Renewal Term.

B) UC may terminate the Agreement for convenience by giving Supplier at least **30** calendar days' written notice.

C) UC or Supplier may terminate the Agreement for cause by giving the other party at least **30** days' notice to cure a breach of the Agreement (Cure Period). If the breaching party fails to cure the breach within the Cure Period, the non-breaching party may immediately terminate the Agreement.

3. Purchase Order; Advance Payments

Unless otherwise provided in the Agreement, Supplier may not begin providing Goods and/or Services until UC approves a Purchase Order for the Goods and/or Services.

4. Pricing, Invoicing Method, and Settlement Method and Terms

A. Pricing. Refer to **Attachment B – UC Price Schedule** for Pricing.

i. Price Increases – After the first twelve (12) months of the term, or longer term as negotiated between UC and the Supplier, of any resulting contract, the Supplier will have an opportunity to request price increases. Requests for price increases may only be made once a year, in writing, 60 days in advance of the contract anniversary date.

a. Product Price Increases – Product price increases will be not exceed the lesser of 3% or the annual increase in the Product Price Index (PPI) for the corresponding commodity:

(1) Vinyl Flooring: Plastics Material and Resins Manufacturing (PCU325211325211)
(2) All Carpet Products: Carpet and Rug Mills: Carpets & Rugs (PCU3141103141100)
(3) Rubber and Linoleum: Plastics and Rubber Products Manufacturing (PCU326326)
(4) Wood Products: Other Millwork, Including Flooring (PCU321918321918)

b. Labor Price Increases – Labor price increases will only be allowed under an increase in the

Department of Industrial Relations (DIR) Prevailing Wage Schedule, and will be capped at the corresponding percentage of any DIR increase.

c. Freight – Where applicable, Supplier agrees to maintain freight pricing, in either set rate or as a percentage of spend, consistent with any increase or decrease in the PPI for General Freight Trucking, Long-Distance Truckload (PCU484121484121)

B. Invoicing Method

Each UC Location will specify the Invoicing Method and Payment Options that will apply, taking into account the operational capabilities of Supplier and the UC Location. See UC's Procure to Pay Standards http://www.ucop.edu/procurement-services/_files/Matrix%20for%20website.pdf for the options that will be considered. In the case of systemwide agreements, each UC Location will specify these terms in a Statement of Work or Purchase Order, as the case may be.]

C. Invoicing

Notwithstanding the provisions of Article 3 of the Terms and Conditions of Purchase, UC will not pay freight as all quoted material costs are freight inclusive.

All invoices must clearly indicate the following information:

Charges associated with California AB2398
California sales tax as a separate line item;
UC Purchase Order or Release Number;
Description, quantity, catalog number and manufacturer number of the item(s) ordered;
Net cost of each item;
Description, quantity, and pay rate of any services provided
Any pay/earned/dynamic discount;
Reference to original order number for all credit memos issued;

Supplier will submit invoices following the designated invoice method directly to UC Accounts Payable Departments at each UC Location, unless UC notifies the Supplier otherwise by amendment to the Agreement.

D. Settlement Method and Terms

Notwithstanding the provisions of Article 3 of the Terms and Conditions of Purchase, the Settlement Method and Terms will be as follows: **ACH Net60**

5. Notices

As provided in the UC Terms and Conditions of Purchase, notices may be given by email, which will be considered legal notice only if such communications include the following text in the Subject field: FORMAL LEGAL NOTICE – [insert, as the case may be, Supplier name or University of California]. If a physical format notice is required, it must be sent by overnight delivery or by certified mail with return receipt requested, at the addresses specified below.

To UC, regarding contract issues:

Name	Reynaldo Cano-Boza
Phone	510.987.9893
Email	Reynaldo.cano-boza@ucop.edu
Address	7835 Trade Street, Suite 100
	San Diego, CA 92121

To Supplier:

DocuSign Envelope ID: 00D557F5-8C93-4D50-98E5-20C6B1CE3305

Name	Tamlin Antoine
Phone	202.480.6461
Email	Tamlin.antoine@milliken.com
Address	924 Milliken Road
	Spartanburg, SC 29303

6. Intellectual Property, Copyright and Patents

/ **X** / The Goods and/or Services **do not** involve Work Made for Hire

7. Patient Protection and Affordable Care Act (PPACA)

/ X / The Services do not involve temporary or supplementary staffing, and they are not subject to the PPACA warranties in the T&Cs.

8. Prevailing Wages

Work performed under this agreement is a public work subject to California Labor Code section 1771. Supplier, or sub-Supplier, must be registered with the DIR pursuant to Labor Code section 1725.5. Supplier is required to post the applicable prevailing wage rate determination and any job site notices as prescribed by the DIR. The work is subject to compliance monitoring and enforcement by the DIR and is subject to project reporting through the DIR.

9. Fair Wage/Fair Work

/_X_/ Supplier is not required to pay the UC Fair Wage (defined as $13 per hour as of 10/1/15, $14 per hour as of 10/1/16, and $15 per hour as of 10/1/17) when providing the Services.

10. Restriction Relating to Consulting Services or Similar Contracts – Follow-on Contracts

Please note a Supplier that is awarded a consulting services or similar contract cannot later submit a bid or be considered for any work "required, suggested, or otherwise deemed appropriate" as the end product of the Services (*see* Public Contract Code Section 10515).

11. Insurance

Deliver the PDF version of the Certificate of Insurance to UC's Buyer, by email with the following text in the Subject field: CERTIFICATE OF INSURANCE – **Milliken Services.**

12. Cooperative Purchasing

Supplier agrees to extend pricing and Goods and/or Services to the California State University institutions (CSU) and the California Community Colleges (CCC) and public agencies nationwide (public and private schools, colleges and universities, cities, counties, non-profits, and all governmental entities) registered with OMNIA Partners under the terms of the Agreement. All contractual administration issues (e.g. terms and conditions, extensions, and renewals) will remain UC's responsibility. Operational issues, fiduciary responsibility, payment issues, performance issues and liabilities, and disputes

involving individual CSU or CCC campuses will be addressed, administered, and resolved by each CSU or CCC campus.

13. Records about Individuals

Records created pursuant to the Agreement that contain personal information about individuals (including statements made by or about individuals) may become subject to the California Information Practices Act of 1977, which includes a right of access by the subject individual. While ownership of confidential or personal information about individuals is subject to negotiated agreement between UC and Supplier, records will normally become UC's property, and subject to state law and UC policies governing privacy and access to files. When collecting the information, Supplier must inform the individual that the record is being made, and the purpose of the record. Use of recording devices in discussions with employees is permitted only as specified in the Statement of Work.

14. Incorporated Documents

This Agreement and its Incorporated Documents contain the entire agreement between the Parties, in order of the below precedent, concerning its subject matter and shall supersede all prior or other agreements, oral and written declarations of intent and other legal arrangements (whether binding or non-binding) made by the Parties in respect thereof.

a. Purchase Agreement 2020002150
b. UC Terms & Conditions of Purchase
c. Attachment A – Statement of Work
d. UC Request for Proposal (#001225-MAY2019) University of California Systemwide Flooring (RFP)
e. Attachment B – University of California Price Schedule
f. Attachment C – Reporting Requirements
g. Appendix – Ecommerce

15. Entire Agreement

The Agreement and its Incorporated Documents contain the entire Agreement between the parties and supersede all prior written or oral agreements with respect to the subject matter herein.

This Agreement can only be signed by an authorized representative with the proper delegation of authority.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

DocuSigned by:
Justin Sullivan
(Signature) 25141E0F2884C40B...

Justin Sullivan Executive Director
(Printed Name, Title)

4/23/2020
(Date)

Milliken Services, LLC

DocuSigned by:
Tamlin Antoine
(Signature) 0837D1A6E0B453...

Tamlin Antoine Director of Government Sales
(Printed Name, Title)

4/20/2020
(Date)

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UNIVERSITY OF CALIFORNIA

Terms and Conditions of Purchase

ARTICLE 1 – GENERAL

The equipment, materials, or supplies ("Goods") and/or services ("Services") furnished by Supplier (together, the "Goods and Services") and covered by the UC Purchase Order ("PO") and/or other agreement (which, when combined with these Terms and Conditions and any other documents incorporated by reference, will constitute the "Agreement") are governed by the terms and conditions set forth herein. As used herein, the term "Supplier" includes Supplier and its sub-suppliers at any tier. As used herein, "UC" refers to The Regents of the University of California, a corporation described in California Constitution Art. IX, Sec. 9, on behalf of the UC Locations identified in the Agreement and/or the PO. UC and Supplier individually will be referred to as "Party" and collectively as "Parties." Any defined terms not defined in these Terms and Conditions of Purchase will have the meaning ascribed to such term in any of the other documents incorporated in and constituting the Agreement. No other terms or conditions will be binding upon the Parties unless accepted by them in writing. Written acceptance or shipment of all or any portion of the Goods, or the performance of all or any portion of the Services, covered by the Agreement, will constitute Supplier's unqualified acceptance of all of the Agreement's terms and conditions. The terms of any proposal referred to in the Agreement are included and made a part of the Agreement only to the extent the proposal specifies the Goods and/or Services ordered, the price therefor, and the delivery thereof, and then only to the extent that such terms are consistent with the terms and conditions of the Agreement.

ARTICLE 2 – TERM AND TERMINATION

A. As applicable, the term of the Agreement ("Initial Term") will be stated in the Agreement. Following the Initial Term, the Agreement may be extended by written mutual agreement.
B. UC's obligation to proceed is conditioned upon the appropriation of state, federal and other sources of funds not controlled by UC ("Funding"). UC will have the right to terminate the Agreement without damage, penalty, cost or further obligation in the event that through no action or inaction on the part of UC, the Funding is withdrawn.
C. UC may, by written notice stating the extent and effective date thereof, terminate the Agreement for convenience in whole or in part, at any time with not less than the number of days' notice stated elsewhere in the Agreement. As specified in the termination notice, UC will pay Supplier as full compensation the pro rata Agreement price for performance through the later of the date that (i) UC provided Supplier with notice of termination or (ii) Supplier's provision of Goods and/or Services will terminate.
D. UC may by written notice terminate the Agreement for Supplier's breach of the Agreement, in whole or in part, at any time, if Supplier refuses or fails to comply with the provisions of the Agreement, or so fails to make progress as to endanger performance and does not cure such failure within five (5) business days, or fails to supply the Goods and/or Services within the time specified or any written extension thereof. In such event, UC may purchase or otherwise secure Goods and/or Services and, except as otherwise provided herein, Supplier will be liable to UC for any excess costs UC incurs thereby.

ARTICLE 3 – PRICING, INVOICING METHOD, AND SETTLEMENT METHOD AND TERMS. Pricing is set forth in the Agreement or Purchase Order Number, and the amount UC is charged and responsible for shall not exceed the amount specified in the Agreement unless UC has given prior written approval. Unless otherwise agreed in writing by UC, Supplier will use the invoicing method and payment settlement method (and will extend the terms applicable to such settlement method) set forth in UC's Supplier Invoicing, Terms & Settlement Matrix. UC will pay Supplier, upon submission of acceptable invoices, for Goods and/or Services provided and accepted. Invoices must be itemized and reference the Agreement or Purchase Order number. UC will not pay shipping, packaging or handling expenses, unless specified in the Agreement or Purchase Order. Unless otherwise provided, freight is to be FOB destination. Any of Supplier's expenses that UC agrees to reimburse will be reimbursed under UC's Travel Policy, which may be found at https://policy.ucop.edu/doc/3420365. Where applicable, Supplier will pay all taxes imposed on Supplier in connection with its performance under the Agreement, including any federal, state and local income, sales, use, excise and other taxes or assessments. Notwithstanding any other provision to the contrary, UC will not be responsible for any fees, interest or surcharges Supplier wishes to impose.

ARTICLE 4 – INSPECTION. The Goods and/or Services furnished will be exactly as specified in the Agreement, free from all defects in Supplier's performance, design, workmanship and materials, and, except as otherwise provided in the Agreement, will be subject to inspection and test by UC at all times and places. If, prior to final acceptance, any Goods and/or Services furnished are found to be incomplete, or not as specified, UC may reject them, require Supplier to correct them at the sole cost of Supplier, or require provision of such Goods and/or Services at a reduction in price that is equitable under the circumstances. If Supplier is unable or refuses to correct such deficiencies within a time UC deems reasonable, UC may terminate the Agreement in whole or in part. Supplier will bear all risks as to

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rejected Goods and/or Services and, in addition to any costs for which Supplier may become liable to UC under other provisions of the Agreement, will reimburse UC for all transportation costs, other related costs incurred, or payments to Supplier in accordance with the terms of the Agreement for unaccepted Goods and/or Services and materials and supplies incidental thereto. Notwithstanding final acceptance and payment, Supplier will be liable for latent defects, fraud or such gross mistakes as amount to fraud.

ARTICLE 5 – ASSIGNED PERSONNEL; CHARACTER OF SERVICES

Supplier will provide the Services as an independent contractor and furnish all equipment, personnel and materiel sufficient to provide the Services expeditiously and efficiently, during as many hours per shift and shifts per week, and at such locations as UC may so require. Supplier will devote only its best-qualified personnel to work under the Agreement. Should UC inform Supplier that anyone providing the Services is not working to this standard, Supplier will immediately remove such personnel from providing Services and he or she will not again, without UC's written permission, be assigned to provide Services. At no time will Supplier or Supplier's employees, sub-suppliers, agents, or assigns be considered employees of UC for any purpose, including but not limited to workers' compensation provisions. Supplier shall not have the power nor right to bind or obligate UC, and Supplier shall not hold itself out as having such authority. Supplier shall be responsible to UC for all Services performed by Supplier's employees, agents and subcontractors, including being responsible for ensuring payment of all unemployment, social security, payroll, contributions and other taxes with respect to such employees, agents and subcontractors.

ARTICLE 6 – WARRANTIES

In addition to the warranties set forth in Articles 11, 12, 17, 23, 24, 25 and 26 herein, Supplier makes the following warranties. Supplier acknowledges that failure to comply with any of the warranties in the Agreement will constitute a material breach of the Agreement and UC will have the right to terminate the Agreement without damage, penalty, cost or further obligation.

A. General Warranties. Supplier represents, warrants and covenants that: (i) Supplier is free to enter into this Agreement and that Supplier is not, and will not become, during the Term, subject to any restrictions that might restrict or prohibit Supplier from performing the Services or providing the Goods ordered hereunder; (ii) Supplier will comply with all applicable laws, rules and regulations in performing Supplier's obligations hereunder; (iii) the Goods and/or Services shall be rendered with promptness and diligence and shall be executed in a workmanlike manner by competent personnel, in accordance with the prevailing industry standards; and if UC Appendix Data Security is NOT included:(iv) Supplier has developed a business interruption and disaster recovery program and is executing such program to assess and reduce the extent to which Supplier's hardware, software and embedded systems may be susceptible to errors or failures in various crisis (or force majeure) situations; (v) if Supplier uses electronic systems for creating, modifying, maintaining, archiving, retrieving or transmitting any records, including test results that are required by, or subject to inspection by an applicable regulatory authority, then Supplier represents and warrants that Supplier's systems for electronic records are in compliance; and (vi) Supplier agrees that the Goods and/or Services furnished under the Agreement will be covered by the most favorable warranties Supplier gives to any customer for the same or substantially similar goods or services, or such other more favorable warranties as specified in the Agreement. The rights and remedies so provided are in addition to and do not limit any rights afforded to UC by any other article of the Agreement.

B. Permits and Licenses. Supplier agrees to procure all necessary permits or licenses and abide by all applicable laws, regulations and ordinances of the United States and of the state, territory and political subdivision or any other country in which the Goods and/or Services are provided.

C. Federal and State Water and Air Pollution Laws. Where applicable, Supplier warrants that it complies with the requirements in UC Business and Finance Bulletin BUS-56 (Materiel Management; Purchases from Entities Violating State or Federal Water or Air Pollution Laws). Consistent with California Government Code 4477, these requirements do not permit UC to contract with entities in violation of Federal or State water or air pollution laws.

D. Web Accessibility Requirements. As applicable to the Supplies and/or Services being provided under the Agreement, Supplier warrants that:
   1. It complies with California and federal disabilities laws and regulations; The Goods and/or Services will conform to the accessibility requirements of WCAG 2.0AA.
   2. Supplier agrees to promptly respond to and resolve any complaint regarding accessibility of its Goods and/or Services;
   3. Within six (6) months of the signing of this Agreement, Supplier will complete the testing of the Goods and Services for level AA conformance with Web Content Accessibility Guidelines (WCAG) 2.0 and report those findings to the University. Provide the

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source to whom the conformance should be submitted. In the event that testing results in findings of non-compliance, Supplier will provide a remediation plan to the University within two (2) months of completion of testing, and will use reasonable efforts to adhere to any remediation timelines provided to the University; and

4. The University and its Authorized User may abridge, modify, translate or create any derivative work based on the Goods and Services when necessary to allow Authorized Users with disabilities to access the Goods and Services.

E. General Accessibility Requirements. Supplier warrants that:
   1. It will comply with California and federal disability laws and regulations;
   2. Supplier will promptly respond to remediate to any identified accessibility defects in the Goods and Services to conform to WCAG 2.0 AA; and
   3. Supplier agrees to promptly respond to and use reasonable efforts to resolve and remediate any complaint regarding accessibility of its Goods and/or Services.

F. Warranty of Quiet Enjoyment. Supplier warrants that Supplier has the right of Quiet Enjoyment in, and conveys the right of Quiet Enjoyment to UC for UC's use of, any and all intellectual property that will be needed for Supplier's provision, and UC's use of, the Goods and/or Services provided by Supplier under the Agreement.

G. California Child Abuse and Neglect Reporting Act ("CANRA"). Where applicable, Supplier warrants that it complies with CANRA.

H. Debarment and Suspension. Supplier warrants that it is not presently debarred, suspended, proposed for debarment, or declared ineligible for award of federal contracts or participation in federal assistance programs or activities.

I. UC Trademark Licensing Code of Conduct. If the Goods will bear UC's name (including UC campus names, abbreviations of these names, UC logos, UC mascots, or UC seals) or other trademarks owned by UC, Supplier warrants that it holds a valid license from UC and complies with the Trademark Licensing Code of Conduct policy, available at http://policy.ucop.edu/doc/3000130/TrademarkLicensing.

J. Outsourcing (Public Contract Code section 12147) Compliance. Supplier warrants that if the Agreement will displace UC employees, no funds paid under the Agreement will be used to train workers who are located outside of the United States, or plan to relocate outside the United States as part of the Agreement. Additionally, Supplier warrants that no work will be performed under the Agreement with workers outside the United States, except as described in Supplier's bid. If Supplier or its subsupplier performs the Agreement with workers outside the United States during the life of the Agreement and Supplier did not describe such work in its bid, Supplier acknowledges and agrees that a) UC may terminate the Agreement without further obligation for noncompliance, and b) Supplier will forfeit to UC the amount UC paid for the percentage of work that was performed with workers outside the United States and not described in Supplier's bid.

ARTICLE 7 – INTELLECTUAL PROPERTY, COPYRIGHT AND PATENTS

A. Goods and/or Services Involving Work Made for Hire.

1. Unless UC indicates that the Goods and/or Services do not involve work made for hire, Supplier acknowledges and agrees that any deliverables provided to UC by Supplier in the performance of the Agreement, and any intellectual property rights therein, (hereinafter the "Deliverables") will be owned by UC. The Deliverables will be considered "work made for hire" under U.S. copyright law and all right, title, and interest to and in such Deliverables including, but not limited to, any and all copyrights or trademarks, will be owned by UC. In the event that it is determined that UC is not the owner of such Deliverables under the "work made for hire" doctrine of U.S. copyright law, Supplier hereby irrevocably assigns to UC all right, title, and interest to and in such Deliverables and any copyrights or trademarks thereto.
2. The Deliverables must be new and original. Supplier must not use any pre-existing copyrightable or trademarked images, writings, or other proprietary materials (hereinafter "Pre-Existing Materials") in the Deliverables without UC's prior written permission. In the event that Supplier uses any Pre-Existing Materials in the Deliverables in which Supplier has an ownership interest, UC is hereby granted, and will have, a non-exclusive, royalty-free, irrevocable, perpetual, paid-up, worldwide license (with the right to sublicense) to make, have made, copy, modify, make derivative works of, use, perform, display publicly, sell, and otherwise distribute such Pre-Existing Materials in connection with the Deliverables.
3. Whenever any invention or discovery is made or conceived by Supplier in the course of or in connection with the Agreement, Supplier will promptly furnish UC with complete information with respect thereto and UC will have the sole power to determine whether and where a patent application will be filed and to determine the disposition of title to and all rights under any application or patent that may result.
4. Supplier is specifically subject to an obligation to, and hereby does, assign all right, title and interest in any such intellectual property rights to UC as well as all right, title and interest in tangible research products embodying any such inventions whether

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the inventions are patentable or not. Supplier agrees to promptly execute any additional documents or forms that UC may require in order to effectuate such assignment.

B. Goods and/or Services Not Involving Work Made for Hire.

1. If the Goods and/or Services do not involve work made for hire, and in the event that Supplier uses any Pre-Existing Materials in the Deliverables in which Supplier has an ownership interest, UC is hereby granted, and will have, a non-exclusive, royalty-free, irrevocable, perpetual, paid-up, worldwide license (with the right to sublicense) to make, have made, copy, modify, make derivative works of, use, perform, display publicly, sell, and otherwise distribute such Pre-Existing Materials in connection with the Deliverables.
2. The Deliverables must be new and original. Supplier must not use any Pre-Existing Materials in the Deliverables without UC's prior written permission.
3. Whenever any invention or discovery is made or conceived by Supplier in the course of or in connection with the Agreement, Supplier will promptly furnish UC complete information with respect thereto and UC will have the sole power to determine whether and where a patent application will be filed and to determine the disposition of title to and all rights under any application or patent that may result.
4. Supplier is specifically subject to an obligation to, and hereby does, assign all right, title and interest in any such intellectual property rights to UC as well as all right, title and interest in tangible research products embodying any such inventions whether the inventions are patentable or not. Supplier agrees to promptly execute any additional documents or forms that UC may require in order to effectuate such assignment.

C. General. Should the Goods and/or Services become, or in Supplier's opinion be likely to become, the subject of a claim of infringement of any patent, copyright, trademark, trade name, trade secret, or other proprietary or contractual right of any third party, Supplier will provide written notice to UC of the circumstances giving rise to such claim or likely claim. In the event that UC receives notice of a claim of infringement or is made a party to or is threatened with being made a party to any claim of infringement related to the Goods and/or Services, UC will provide Supplier with notice of such claim or threat. Following receipt of such notice, Supplier will either (at Supplier's sole election) (i) procure for UC the right to continue to use the affected portion of the Goods and/or Services, or (ii) replace or otherwise modify the affected portion of the Goods and/or Services to make them non-infringing, or obtain a reasonable substitute product for the affected portion of the Goods and/or Services, provided that any replacement, modification or substitution under this paragraph does not effect a material change in the Goods and/or Services' functionality. If none of the foregoing options is reasonably acceptable to UC, UC will have the right to terminate the Agreement without damage, penalty, cost or further obligation.

ARTICLE 8 – INDEMNITY

To the fullest extent permitted by law, Supplier will defend, indemnify, and hold harmless UC, its officers, employees, and agents, from and against all losses, expenses (including, without limitation, reasonable attorneys' fees and costs), damages, and liabilities of any kind resulting from or arising out of the Agreement, including the performance hereunder of Supplier, its officers, employees, agents, sub-suppliers, or anyone directly or indirectly employed by Supplier, or any person or persons under Supplier's direction and control, provided such losses, expenses, damages and liabilities are due or claimed to be due to the acts or omissions of Supplier, its officers, employees, agents, sub-suppliers, or anyone directly or indirectly employed by Supplier, or any person or persons under Supplier's direction and control. UC agrees to provide Supplier with prompt notice of any such claim or action and to permit Supplier to defend any claim or action, and that UC will cooperate fully in such defense. UC retains the right to participate in the defense against any such claim or action, and the right to consent to any settlement, which consent will not unreasonably be withheld.

ARTICLE 9 – INSURANCE

Supplier, at its sole cost and expense, will insure its activities in connection with providing the Goods and/or Services and obtain, keep in force, and maintain the following insurance with the minimum limits set forth below, unless UC specifies otherwise:

A. Commercial Form General Liability Insurance (contractual liability included) with limits as follows:
   1. Each Occurrence $ 1,000,000
   2. Products/Completed Operations Aggregate $ 2,000,000

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3. Personal and Advertising Injury $ 1,000,000
4. General Aggregate $ 2,000,000

B. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit of not less than one million dollars ($1,000,000) per occurrence. (Required only if Supplier drives on UC premises or transports UC employees, officers, invitees, or agents in the course of supplying the Goods and/or Services to UC.)

C. If applicable, Professional Liability Insurance with a limit of two million dollars ($2,000,000) per occurrence or claim with an aggregate of not less than two million dollars ($2,000,000). If this insurance is written on a claims-made form, it will continue for three years following termination of the Agreement. The insurance will have a retroactive date of placement prior to or coinciding with the effective date of the Agreement.

D. Workers' Compensation as required by applicable state law and Employer's Liability with limits of one million dollars ($1,000,000) per occurrence. Workers' Compensation as required by applicable state law and Employer's Liability with limits of one million dollars ($1,000,000) per occurrence.

E. If applicable, Supplier Fidelity Bond or Crime coverage for the dishonest acts of its employees in a minimum amount of one million dollars ($1,000,000). Supplier will endorse such policy to include a "Regents of the University of California Coverage" or "Joint Payee Coverage" endorsement. UC and, if so requested, UC's officers, employees, agents and sub-suppliers will be named as "Loss Payee, as Their Interest May Appear" in such Fidelity Bond.

F. Additional other insurance in such amounts as may be reasonably required by UC against other insurable risks relating to performance. If the above insurance is written on a claims-made form, it will continue for three years following termination of the Agreement. The insurance will have a retroactive date of placement prior to or coinciding with the effective date of the Agreement. If the above insurance coverage is modified, changed or cancelled, Supplier will provide UC with not less than fifteen (15) days' advance written notice of such modification, change, or cancellation, and will promptly obtain replacement coverage that complies with this Article.

G. The coverages referred to under A and B of this Article must include UC as an additional insured. It is understood that the coverage and limits referred to under A, B and C of this Article will not in any way limit Supplier's liability. Supplier will furnish UC with certificates of insurance (and the relevant endorsement pages) evidencing compliance with all requirements prior to commencing work under the Agreement. Such certificates will:
   1. Indicate that The Regents of the University of California has been endorsed as an additional insured for the coverage referred to under A and B of this Article. This provision will only apply in proportion to and to the extent of the negligent acts or omissions of Supplier, its officers, agents, or employees.
   2. Include a provision that the coverage will be primary and will not participate with or be excess over any valid and collectible insurance or program of self-insurance carried or maintained by UC.

ARTICLE 10 – USE OF UC NAME AND TRADEMARKS

Supplier will not use the UC name, abbreviation of the UC name, trade names and/or trademarks (i.e., logos and seals) or any derivation thereof, in any form or manner in advertisements, reports, or other information released to the public, or place the UC name, abbreviations, trade names and/or trademarks or any derivation thereof on any consumer goods, products, or services for sale or distribution to the public, without UC's prior written approval. Supplier agrees to comply at all times with California Education Code Section 92000.

ARTICLE 11 – FEDERAL FUNDS

Supplier who supplies Goods and/or Services certifies and represents its compliance with the following clauses, as applicable. Supplier shall promptly notify UC of any change of status with regard to these certifications and representations. These certifications and representations are material statements upon which UC will rely.

A. For commercial transactions involving funds on a federal contract (federal awards governed by the FAR), the following provisions apply, as applicable:

i. FAR 52.203-13, Contractor Code of Business Ethics and Conduct;
ii. FAR 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights;
iii. FAR 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements;
iv. FAR 52.219-8, Utilization of Small Business Concerns;
v. FAR 52.222-17, Non-displacement of Qualified Workers;

vi. FAR 52.222-21, Prohibition of Segregated Facilities;
vii. FAR 52.222-26, Equal Opportunity;
viii. FAR 52.222-35, Equal Opportunity for Veterans;
ix. FAR 52.222-36, Equal Opportunity for Workers with Disabilities;
x. FAR 52.222-37, Employment Reports on Veterans;
xi. FAR 52.222-40, Notification of Employee Rights Under the National Labor Relations Act;
xii. FAR 52.222-41, Service Contract Labor Standards;
xiii. FAR 52.222-50, Combating Trafficking in Persons;
xiv. FAR 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements;
xv. FAR 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services - Requirements;
xvi. FAR 52.222-54, Employment Eligibility Verification;
xvii. FAR 52.222-55, Minimum Wages Under Executive Order 13658;
xviii. FAR 52.222-62, Paid Sick Leave under Executive Order 13706;
xix. FAR 52.224-3, Privacy Training;
xx. FAR 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations; and
xxi. FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels.

B. For non-commercial transactions involving funds on a federal contract, the UC Appendix titled '*Federal Government Contracts Special terms and Conditions (Non-Commercial Items or Services*)' and located at www.ucop.edu/procurement-services/policies-forms/index.html is hereby incorporated herein by this reference.

C. For transactions involving funds on a federal grant or cooperative agreement (federal awards governed by eCFR Title 2, Subtitle A, Chapter II, Part 200) the following provisions apply, as applicable:

i. Rights to Inventions. If Supplier is a small business firm or nonprofit organization, and is providing experimental, development, or research work under this transaction, Supplier must comply with the requirements of 3 CFR Part 401, "Rights to Inventions Made by nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements".
ii. Clean Air Act. Supplier agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
iii. Byrd Anti-Lobbying. Supplier certifies that it will not, and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.
iv. Procurement of Recovered Materials. If Supplier is a state agency or agency of a political subdivision of a state, then Supplier must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

D. In these provisions, the term "contractor" as used therein will refer to Supplier, and the terms "Government" or "Contracting Officer" as used therein will refer to UC. Where a purchase of items is for fulfillment of a specific U.S. Government prime or subcontract, additional information and/or terms and conditions may be included in an attached supplement. By submitting an invoice to UC, Supplier is representing to UC that, at the time of submission:

i. Neither Supplier nor its principals are presently debarred, suspended, or proposed for debarment by the U.S. government (see FAR 52.209-6);
ii. Supplier has filed all compliance reports required by the Equal Opportunity clause (see FAR 52.222-22); and
iii. Any Supplier representations to UC about U.S. Small Business Administration or state and local classifications, including but not limited to size standards, ownership, and control, are accurate and complete.
iv. Byrd Anti-Lobbying. Supplier certifies that it will not, and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or

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employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

ARTICLE 12 – EQUAL OPPORTUNITY AFFIRMATIVE ACTION

Supplier will abide by the requirements set forth in Executive Orders 11246 and 11375. Where applicable, Supplier will comply with 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), incorporated by reference with this statement: **"This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability."** With respect to activities occurring in the State of California, Supplier agrees to adhere to the California Fair Employment and Housing Act. Supplier will provide UC on request a breakdown of its labor force by groups as specified by UC, and will discuss with UC its policies and practices relating to its affirmative action programs. Supplier will not maintain or provide facilities for employees at any establishment under its control that are segregated on a basis prohibited by federal law. Separate or single-user restrooms and necessary dressing or sleeping areas must be provided, however, to ensure privacy.

ARTICLE 13 – LIENS

Supplier agrees that upon UC's request, Supplier will submit a sworn statement setting forth the work performed or material furnished by sub-suppliers and material men, and the amount due and to become due to each, and that before the final payment called for under the Agreement, will upon UC's request submit to UC a complete set of vouchers showing what payments have been made for such work performed or material furnished. Supplier will promptly notify UC in writing, of any claims, demands, causes of action, liens or suits brought to its attention that arise out of the Agreement. UC will not make final payment until Supplier, if required, delivers to UC a complete release of all liens arising out of the Agreement, or receipts in full in lieu thereof, as UC may require, and if required in either case, an affidavit that as far as it has knowledge or information, the receipts include all the labor and materials for which a lien could be filed; but Supplier may, if any sub-supplier refuses to furnish a release or receipt in full, furnish a bond satisfactory to UC to indemnify it against any claim by lien or otherwise. If any lien or claim remains unsatisfied after all payments are made, Supplier will refund to UC all monies that UC may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorneys' fees.

ARTICLE 14 – PREMISES WHERE SERVICES ARE PROVIDED

A. Cleaning Up. Supplier will at all times keep UC premises where the Services are performed and adjoining premises free from accumulations of waste material or rubbish caused by its employees or work of any of its sub-suppliers, and, at the completion of the Services; will remove all rubbish from and about the premises and all its tools, scaffolding, and surplus materials, and will leave the premises "broom clean" or its equivalent, unless more exactly specified. In case of dispute between Supplier and its sub-suppliers as to responsibility for the removal of the rubbish, or if it is not promptly removed, UC may remove the rubbish and charge the cost to Supplier.

B. Environmental, Safety, Health and Fire Protection. Supplier will take all reasonable precautions in providing the Goods and Services to protect the health and safety of UC employees and members of the public and to minimize danger from all hazards to life and property, and will comply with all applicable environmental protection, health, safety, and fire protection regulations and requirements (including reporting requirements). In the event that Supplier fails to comply with such regulations and requirements, UC may, without prejudice to any other legal or contractual rights of UC, issue an order stopping all or any part of the provision of the Goods and/or Services; thereafter a start order for resumption of providing the Goods and/or Services may be issued at UC's discretion. Supplier will not be entitled to make a claim for extension of time or for compensation or damages by reason of or in connection with such stoppage. Supplier will have sole responsibility for the safety of all persons employed by Supplier and its sub-suppliers on UC premises, or any other person who enters upon UC premises for reasons relating to the Agreement. Supplier will at all times maintain good order among its employees and all other persons who come onto UC's premises at Supplier's request and will not engage any unfit or unskilled person to provide the Goods and/or Services. Supplier will confine its employees and all other persons who come onto UC's premises at Supplier's request or for reasons relating to the Agreement and its equipment to that portion of UC's premises where the Services are to be provided or to roads leading to and from such work sites, and to any other area which UC may permit

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Supplier to use. Supplier will take all reasonable measures and precautions at all times to prevent injuries to or the death of any of its employees or any other person who enters upon UC premises at Supplier's request. Such measures and precautions will include, but will not be limited to, all safeguards and warnings necessary to protect workers and others against any conditions on the premises that could be dangerous and to prevent accidents of any kind whenever the Goods and/or Services are being provided in proximity to any moving or operating machinery, equipment or facilities, whether such machinery, equipment or facilities are the property of or are being operated by, Supplier, its sub-suppliers, UC or other persons. To the extent compliance is required, Supplier will comply with all relevant UC safety rules and regulations when on UC premises.

C. Tobacco-free Campus. UC is a tobacco-free institution. Use of cigarettes, cigars, oral tobacco, electronic cigarettes and all other tobacco products is prohibited on all UC owned or leased sites.

ARTICLE 15 – LIABILITY FOR UC - FURNISHED PROPERTY

Supplier assumes complete liability for any materials UC furnishes to Supplier in connection with the Agreement and Supplier agrees to pay for any UC materials Supplier damages or otherwise is not able to account for to UC's satisfaction. UC furnishing to Supplier any materials in connection with the Agreement will not, unless otherwise expressly provided in writing by UC, be construed to vest title thereto in Supplier.

ARTICLE 16 – COOPERATION

Supplier and its sub-suppliers, if any, will cooperate with UC and other suppliers and will so provide the Services that other cooperating suppliers will not be hindered, delayed or interfered with in the progress of their work, and so that all of such work will be a finished and complete job of its kind.

ARTICLE 17 – ADDITIONAL TERMS APPLICABLE TO THE FURNISHING OF GOODS

The terms in this Article have special application to the furnishing of Goods:

A. Price Decreases. Supplier agrees immediately to notify UC of any price decreases from its suppliers, and to pass through to UC any price decreases.

B. Declared Valuation of Shipments. Except as otherwise provided in the Agreement, all shipments by Supplier under the Agreement for UC's account will be made at the maximum declared value applicable to the lowest transportation rate or classification and the bill of lading will so note.

C. Title. Title to the Goods purchased under the Agreement will pass directly from Supplier to UC at the f.o.b. point shown, or as otherwise specified in the Agreement, subject to UC's right to reject upon inspection.

D. Changes. Notwithstanding the terms in Article 34, Amendments, UC may make changes within the general scope of the Agreement in drawings and specifications for specially manufactured Goods, place of delivery, method of shipment or packing of the Agreement by giving notice to Supplier and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of the Agreement, UC and Supplier will agree upon an equitable adjustment in the price and/or delivery terms. Supplier may not make changes without UC's written approval. Any claim of Supplier for an adjustment under the Agreement must be made in writing within thirty (30) days from the date Supplier receives notice of such change unless UC waives this condition in writing. Nothing in the Agreement will excuse Supplier from proceeding with performance of the Agreement as changed hereunder. Supplier may not alter or misbrand, within the meaning of the applicable Federal and State laws, the Goods furnished.

E. Forced, Convict and Indentured Labor. Supplier warrants that no foreign-made Goods furnished to UC pursuant to the Agreement will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction. If UC determines that Supplier knew or should have known that it was breaching this warranty, UC may, in addition to terminating the Agreement, remove Supplier from consideration for UC contracts for a period not to exceed one year. This warranty is in addition to any applicable warranties in Articles 6 and 11.

F. Export Control. If any of the Goods is export-controlled under the International Traffic in Arms Regulations (22 CFR §§ 120-130), the United States Munitions List (22 CFR § 121.1), or Export Administration Regulations (15 CFR §§ 730-774) 500 or 600 series, or controlled on a military strategic goods list, Supplier agrees to provide UC (the contact listed on the Purchase Order) with written notification that identifies the export-controlled Goods and such Goods' export classification.

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ARTICLE 18 – CONFLICT OF INTEREST

Supplier affirms that, to the best of Supplier's knowledge, no UC employee who has participated in UC's decision-making concerning the Agreement has an "economic interest" in the Agreement or Supplier. A UC employee's "economic interest" means:

A. An investment worth $2,000 or more in Supplier or its affiliate;
B. A position as director, officer, partner, trustee, employee or manager of Supplier or its affiliate;
C. Receipt during the past 12 months of $500 in income or $440 in gifts from Supplier or its affiliate; or
D. A personal financial benefit from the Agreement in the amount of $250 or more.

In the event of a change in these economic interests, Supplier will provide written notice to UC within thirty (30) days after such change, noting such changes. Supplier will not be in a reporting relationship to a UC employee who is a near relative, nor will a near relative be in a decision making position with respect to Supplier.

ARTICLE 19 – AUDIT REQUIREMENTS

The Agreement, and any pertinent records involving transactions relating to this Agreement, is subject to the examination and audit of the Auditor General of the State of California or Comptroller General of the United States or designated Federal authority for a period of up to five (5) years after final payment under the Agreement. UC, and if the underlying grant, cooperative agreement or federal contract so provides, the other contracting Party or grantor (and if that be the United States or an instrumentality thereof, then the Comptroller General of the United States) will have access to and the right to examine Supplier's pertinent books, documents, papers, and records involving transactions and work related to the Agreement until the expiration of five (5) years after final payment under the Agreement. The examination and audit will be confined to those matters connected with the performance of the Agreement, including the costs of administering the Agreement.

ARTICLE 20 – PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION

Supplier agrees to hold UC's Confidential Information, and any information derived therefrom, in strict confidence. Confidential Information shall be defined as any information disclosed by UC to Supplier for the purposes of providing the Good and/or Services which is (i) marked as "Confidential" at the time of disclosure; (ii) disclosed orally, identified at the time of such oral disclosure as confidential, and reduced to writing as "Confidential" within thirty (30) days of such oral disclosure; and (iii) if not marked as "Confidential," information that would be considered by a reasonable person in the relevant field to be confidential given its content and the circumstances of its disclosure. Confidential Information will not include information that: (i) Supplier can demonstrate by written records was known to Supplier prior to the effective date of the Agreement; (ii) is currently in, or in the future enters, the public domain other than through a breach of the Agreement or through other acts or omissions of Supplier; (iii) is obtained lawfully from a third party; or (iv) is disclosed under the California Public Records Act or legal process.

Supplier will not access, use or disclose Confidential Information other than to carry out the purposes for which UC disclosed the Confidential Information to Supplier, except as permitted or required by applicable law, or as otherwise authorized in writing by UC prior to the disclosure. Supplier shall have the limited right to disclose UC's Confidential Information to Supplier's employees provided that: (i) Supplier shall disclose only such UC's Confidential Information as is necessary for the Supplier to perform its obligations under this Agreement; (ii) such employees have been informed of the confidential nature of such information; and (iii) such employees have agreed in writing to be bound by confidentiality obligations at least as stringent as those set forth in this Agreement. Supplier shall be liable for any breach of this Agreement by its employees. For avoidance of doubt, this provision prohibits Supplier from using for its own benefit Confidential Information and any information derived therefrom. If Supplier is required by a court of competent jurisdiction or an administrative body to disclose Confidential Information, Supplier will notify UC in writing immediately upon receiving notice of such requirement and prior to any such disclosure (unless Supplier is prohibited by law from doing so), to give UC an opportunity to oppose or otherwise respond to such disclosure. To the extent Supplier is still required to make such a disclosure, Supplier will give UC prompt written notice of such event and will furnish only that portion that is legally required and will exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be afforded to the Confidential Information. Supplier's transmission, transportation or storage of Confidential Information outside the United States, or access of Confidential Information from outside the United States, is prohibited except with prior written authorization by UC. UC's Appendix – Data Security, Appendix – HIPAA Business Associate, and/or Appendix – General Data Protection Regulation will control in the event that one or both appendices is incorporated into the Agreement and conflicts with the provisions of this Article.

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Supplier acknowledges that remedies at law would be inadequate to protect UC against any actual or threatened breach of this Section by Supplier, and, without prejudice to any other rights and remedies otherwise available to UC, Supplier agrees to the granting of injunctive relief in UC's favor without proof of actual damages.

ARTICLE 21 – UC WHISTLEBLOWER POLICY

UC is committed to conducting its affairs in compliance with the law, and has established a process for reporting and investigating suspected improper governmental activities. Please visit http://www.ucop.edu/uc-whistleblower/ for more information.

ARTICLE 22 – SUSTAINABLE PROCUREMENT GUIDELINES

Supplier will conduct business using environmentally, socially, and economically sustainable products and services (defined as products and services with a lesser or reduced effect on human health and the environment, and which generate benefits to the University as well as to society and the economy, while remaining within the carrying capacity of the environment), to the maximum possible extent consistent with the Agreement, and with the University of California Sustainable Practices Policy (https://policy.ucop.edu/doc/3100155) and the University of California Sustainable Procurement Guidelines:
(https://www.ucop.edu/procurement-services/_files/sustainableprocurementguidelines.pdf).
In accordance with the University of California Sustainable Practices Policy, Supplier will adhere to the following requirements and standards, as applicable. Supplier acknowledges that failure to comply with any of the sustainability standards and requirements in the Agreement will constitute a material breach of the Agreement and UC will have the right to terminate the Agreement without damage, penalty, cost or further obligation.

A. Sustainability Marketing Standards. Supplier sustainability related claims, where applicable, must meet University of California recognized certifications and standards set forth in the UC Sustainable Procurement Guidelines and/or meet the standards of Federal Trade Commission's (FTC) Green Guides.
B. Electronic Transfer of Supplier Information. Suppliers, when interacting with the University, shall be prohibited from providing hard copies of presentations, marketing material, or other informational materials. Suppliers will be required to present all information in electronic format that is easily transferable to University staff. Materials may be provided in hard copy or physical format if specifically required or requested by a UC representative.
C. Packaging Requirements. All packaging must be compliant with the Toxics in Packaging Prevention Act (AB 455) and must meet all additional standards and requirements set forth in the UC Sustainable Practices Policy. In addition, the University requires that all packaging meet at least one of the criteria listed below:
    a. Uses bulk packaging;
    b. Uses reusable packaging (e.g. totes reused by delivery service for next delivery);
    c. Uses innovative packaging that reduces the weight of packaging, reduces packaging waste, or utilizes packaging that is a component of the product;
    d. Maximizes recycled content and/or meets or exceeds the minimum post-consumer content level for packaging in the U.S. Environmental Protection Agency Comprehensive Procurement Guidelines;
    e. Uses locally recyclable or certified compostable material.
D. Expanded Polystyrene (EPS) Ban. No EPS shall be used in foodservice facilities for takeaway containers. By 2020, the University will be prohibited from procuring Goods containing, or that are provided in packaging containing, Expanded Polystyrene (EPS) other than that utilized for laboratory supply or medical packaging and products where no functional alternatives exist.
E. E-Waste Recycling Requirements. All recyclers of University of California electronic equipment must be e-Steward certified by the Basel Action Network (BAN) or R2 Standard certified.

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Hosted and Punch-out Catalog Requirements. Suppliers enabled with eProcurement hosted catalog functionality must clearly identify products with UC-recognized certifications, as defined by the UC Sustainable Procurement Guidelines, in both hosted and punchout catalog e-procurement environments.

ARTICLE 23 – PATIENT PROTECTION AND AFFORDABLE CARE ACT (PPACA) EMPLOYER SHARED RESPONSIBILITY

If the Services involve Supplier furnishing UC with temporary or supplementary staffing, Supplier warrants that:

A. If Supplier is an Applicable Large Employer (as defined under Treasury Regulation Section 54.4980H-1(a)(4)):
   1. Supplier offers health coverage to its full-time employees who are performing Services for UC;
   2. Supplier's cost of enrolling such employees in Supplier's health plan is factored into the fees for the Services; and
   3. The fees for the Services are higher than what the Services would cost if Supplier did not offer health coverage to such full-time employees.

B. If Supplier is not an Applicable Large Employer (as defined above):
   1. Supplier offers group health coverage to its full-time employees who are performing Services for UC and such coverage is considered Minimum Essential Coverage (as defined under Treasury Regulation Section 1-5000A-2) and is Affordable (as defined under Treasury Regulation Section 54.4980H-5(e)); or
   2. Supplier's full-time employees who are performing services for UC have individual coverage and such coverage satisfies the PPACA requirements for mandated individual coverage.

Supplier acknowledges that UC is relying on these warranties to ensure UC's compliance with the PPACA Employer Shared Responsibility provision.

ARTICLE 24 - PREVAILING WAGES

Unless UC notifies Supplier that the Services are not subject to prevailing wage requirements, Supplier will comply, and will ensure that all sub-suppliers comply, with California prevailing wage provisions, including but not limited to those set forth in Labor Code sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, 1775, 1776, 1777.5, and 1777.6. For purposes of the Agreement, the term "sub-supplier" means a person or firm, of all tiers, that has a contract with Supplier or with a sub-supplier to provide a portion of the Services. The term sub-supplier will not include suppliers, manufacturers, or distributors. Specifically, and not by way of limitation, if apprenticable occupations are involved in providing the Services, Supplier will be responsible for ensuring that Supplier and any sub-suppliers comply with Labor Code Section 1777.5. Supplier and sub-supplier may not provide the Services unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5 and 1771.1. Notwithstanding the foregoing provisions, Supplier will be solely responsible for tracking and ensuring proper payment of prevailing wages regardless if Services are partially or wholly subject to prevailing wage requirements. In every instance, Supplier will pay not less than the UC Fair Wage (defined as $13 per hour as of 10/1/15, $14 per hour as of 10/1/16, and $15 per hour as of 10/1/17) for Services being performed at a UC Location (defined as any location owned or leased by UC).

The California Department of Industrial Relations (DIR) has ascertained the general prevailing per diem wage rates in the locality in which the Services are to be provided for each craft, classification, or type of worker required to provide the Services. A copy of the general prevailing per diem wage rates will be on file at each UC Location's procurement office, and will be made available to any interested party upon request. Supplier will post at any job site:

A. Notice of the general prevailing per diem wage rates, and
B. Any other notices required by DIR rule or regulation.

By this reference, such notices are made part of the Agreement. Supplier will pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Supplier in providing the Services. Supplier will cause all subcontracts to include the provision that all sub-suppliers will pay not less than the prevailing rates to all workers employed by such sub-suppliers in providing the Services. The Services are subject to compliance monitoring and enforcement by the DIR. Supplier will forfeit, as a penalty, not more than $200 for each calendar day or portion thereof for each worker that is paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any portion of the Services provided by Supplier or any sub-supplier. The amount of this penalty will be determined pursuant to applicable law. Such forfeiture amounts may be deducted from the amounts due under the Agreement. If there are insufficient funds remaining in the amounts due under the Agreement, Supplier will

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be liable for any outstanding amount remaining due. Supplier will also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Services, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker. Review of any civil wage and penalty assessment will be made pursuant to California Labor Code section 1742.

ARTICLE 25 – FAIR WAGE/FAIR WORK

If the Agreement is for Services that will be performed at one or more UC Locations, does not solely involve furnishing Goods, and are not subject to extramural awards containing sponsor-mandated terms and conditions, Supplier warrants that it is in compliance with applicable federal, state and local working conditions requirements, including but not limited to those set forth in Articles 11, 12 and 14 herein, and that Supplier pays its employees performing the Services no less than the UC Fair Wage. Supplier agrees UC may conduct such UC Fair Wage/Fair Work interim compliance audits as UC reasonably requests, as determined in UC's sole discretion. Supplier agrees to post UC Fair Wage/Fair Work notices, in the form supplied by UC, in public areas (such as break rooms and lunch rooms) frequented by Supplier employees who perform Services.

For Services that exceed $100,000 annually and are not subject to prevailing wage requirements, Supplier will, a) at Supplier's expense, provide an annual independent verification performed by a licensed public accounting firm (independent accountant) or the Supplier's independent internal audit department (http://na.theiia.org/standards-guidance/topics/Pages/Independence-and-Objectivity.aspx) in compliance with UC's required verification standards and procedures, concerning Supplier's compliance with this provision, and b) ensure that in the case of a UC interim audit, its independent accountant/independent internal auditor makes available to UC its UC Fair Wage/Fair Work work papers for the most recent verification period. Supplier agrees to provide UC with a UC Fair Wage/Fair Work verification annually, in a form acceptable to UC, no later than ninety days after each one-year anniversary of the agreement's effective date, for the twelve months immediately preceding the anniversary date. All Supplier FW/FW compliance resources available here: https://www.ucop.edu/procurement-services/for-suppliers/fwfw-resources-suppliers.html.

ARTICLE 26 – MEDICAL DEVICES

This Article applies when the Goods and/or Services involve UC purchasing or leasing one or more medical devices from Supplier, or when Supplier uses one or more medical devices in providing Goods and/or Services to UC.

Medical Device as used herein will have the meaning provided by the U.S. Food and Drug Administration ("FDA") and means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part, or accessory which is: (i) recognized in the official National Formulary, or the United States Pharmacopoeia, or any supplement to them; (ii) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or (iii) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes.

Supplier warrants that prior to UC's purchase or lease of any Medical Device or Supplier's use of any Medical Device in providing Goods and/or Services hereunder, Supplier will: (i) perform security testing and validation for each such Goods and/or Services or Medical Device, as applicable; (ii) perform a security scan by an anti-virus scanner, with up-to-date signatures, on any software embedded within any Goods and/or Services or Medical Device, as applicable, in order to verify that the software does not contain any known viruses or malware; (iii) conduct a vulnerability scan encompassing all ports and fuzz testing; and (iv) provide UC with reports for (i) – (iii). Supplier warrants that all security testing performed by Supplier covers all issues noted in the "SANS WE TOP 25" and/or "OWASP Top 10" documentation.

Throughout Supplier's performance of this Agreement, Supplier will provide UC with reasonably up-to-date patches, firmware and security updates for any Medical Device provided to UC, and any other Medical Device used in the course of providing Services, as applicable. All such patches and other security updates will be made available to UC within thirty (30) days of its commercial release or as otherwise recommended by Supplier or Supplier's sub-supplier, whichever is earlier.

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Supplier warrants that all software and installation media not specifically required for any Medical Device used by Supplier or Goods and/or Services delivered to UC under this Agreement as well as files, scripts, messaging services and data will be removed from all such Goods and/or Services or Medical Device following installation, and that all hardware ports and drives not required for use or operation of such Goods and/or Services or Medical Device will be disabled at time of installation. In addition, Medical Devices must be configured so that only Supplier-approved applications will run on such Medical Devices.

Supplier agrees that UC may take any and all actions that it, in its sole discretion, deems necessary to address, mitigate and/or rectify any real or potential security threat, and that no such action, to the extent such action does not compromise device certification, will impact, limit, reduce or negate Supplier's warranties or any of Supplier's other obligations hereunder.

Supplier warrants that any Medical Device provided to UC, and any other Medical Device used in the course of providing such Goods and/or Services, meet and comply with all cyber-security guidance and similar standards promulgated by the FDA and any other applicable regulatory body.

If the Goods and/or Services entail provision or use of a Medical Device, Supplier will provide UC with a completed Manufacturer Disclosure Statement for Medical Device Security (MDS2) form for each such Medical Device before UC is obligated to purchase or lease such Medical Device or prior to Supplier's use of such device in its performance of Services. If Supplier provides an MDS2 form to UC concurrently with its provision of Goods and/or Services, UC will have a reasonable period of time to review such MDS2 form, and if the MDS2 form is unacceptable to UC, then UC in its sole discretion may return the Goods or terminate the Agreement with no further obligation to Supplier.

ARTICLE 27 – FORCE MAJEURE

Neither Party will be liable for delays due to causes beyond the Party's control (including, but not restricted to, war, civil disturbances, earthquakes, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather).

ARTICLE 28 – ASSIGNMENT AND SUBCONTRACTING

Except as to any payment due hereunder, Supplier may not assign or subcontract the Agreement without UC's written consent. In case such consent is given, the assignee or subcontractor will be subject to all of the terms of the Agreement.

ARTICLE 29 – NO THIRD-PARTY RIGHTS

Nothing in the Agreement, express or implied, is intended to make any person or entity that is not a signer to the Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

ARTICLE 30 – OTHER APPLICABLE LAWS

Any provision required to be included in a contract of this type by any applicable and valid federal, state or local law, ordinance, rule or regulations will be deemed to be incorporated herein.

ARTICLE 31 – NOTICES

A Party must send any notice required to be given under the Agreement by overnight delivery or by certified mail with return receipt requested, to the other Party's representative at the address specified by such Party.

ARTICLE 32 – SEVERABILITY

If a provision of the Agreement becomes, or is determined to be, illegal, invalid, or unenforceable, that will not affect the legality, validity or enforceability of any other provision of the Agreement or of any portion of the invalidated provision that remains legal, valid, or enforceable.

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ARTICLE 33 – WAIVER

Waiver or non-enforcement by either Party of a provision of the Agreement will not constitute a waiver or non-enforcement of any other provision or of any subsequent breach of the same or similar provision.

ARTICLE 34 – AMENDMENTS

The Parties may make changes in the Goods and/or Services or otherwise amend the Agreement, but only by a writing signed by both Parties' authorized representatives.

ARTICLE 35 – GOVERNING LAW AND VENUE

California law will control the Agreement and any document to which it is appended. The exclusive jurisdiction and venue for any and all actions arising out of or brought under the Agreement is in a state court of competent jurisdiction, situated in the county in the State of California in which the UC Location is located or, where the procurement covers more than one UC Location, the exclusive venue is Alameda County, California.

ARTICLE 36 – SUPPLIER TERMS

Any additional terms that Supplier includes in an order form or similar document will be of no force and effect, unless UC expressly agrees in writing to such terms.

ARTICLE 37 – SURVIVAL CLAUSE

Upon expiration or termination of the Agreement, the following provisions will survive: WARRANTIES; INTELLECTUAL PROPERTY, COPYRIGHT AND PATENTS; INDEMNITY; USE OF UC NAMES AND TRADEMARKS; LIABILITY FOR UC-FURNISHED PROPERTY; COOPERATION; TERMS APPLICABLE TO THE FURNISHING OF GOODS; AUDIT REQUIREMENTS; PROHIBITION ON UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION; GOVERNING LAW AND VENUE, and, to the extent incorporated into the Agreement, the terms of the APPENDIX–DATA SECURITY, APPENDIX–BUSINESS ASSOCIATES, and/or APPENDIX – GENERAL DATA PROTECTION REGULATION.

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ATTACHMENT A TO PURCHASING AGREEMENT #2020002150

STATEMENT OF WORK

This Statement of Work ("SOW") is issued pursuant to Purchasing Agreement #2020002150 dated April 15th, 2020 between UC and Supplier ("Agreement").

1. Flooring Products & Services at the University of California

Products and services provided to the University shall meet all requirements established under the Category Specifications and Installation Services requirements as defined in University of California Request for Proposal "#001225-May2019 - University of California Systemwide Flooring".

2. Term of SOW

This SOW will begin on April 15th, 2020 ("Effective Date") and continue through April 14th, 2025. This SOW may not be renewed or otherwise amended except through a Change Order pursuant to the Change Management section below.

3. Key Tasks and Activities, Deliverables and Completion Timeframe

Supplier Obligations				
Task		Activities	Deliverables	Completion Date or Timeframe
1	Flooring Products & Services	Provide flooring products services as needed either directly or through a flooring dealer.	Flooring Products, Installation Services, Recycling & Reclamation of Old Floor Covering	As requested
2	Quarterly KPI Reports	Provide Quarterly reporting on product recycling and small business utilization as outlined in Attachment C.	Quarterly KPI Reports	30 days following the end of the quarter
3	Monthly Purchase Reports	Provide Monthly purchase reports as defined in Attachment C.	Monthly Sales Reports	15 days following the last day of the month

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4. UC Obligations

Not Applicable

5. Place(s) of Performance

Supplier agrees to make available products and services to any UC location upon the terms, conditions, and pricing set forth in this agreement. Additionally, products and services will be made available nationally through OMNIA Partners member agencies.

6. Key Personnel

Supplier's Account Manager is listed below, is subject to UC approval, and has overall responsibility for managing the UC/Supplier relationship:

Name	Tamlin Antoine
Phone	202.480.6461
Email	Tamlin.antoine@milliken.com
Address	924 Milliken Road
	Spartanburg, SC 29303

UC'S Project Manager, responsible for acceptance/rejection of project results/deliverables, is:

Name	Reynaldo Cano-Boza
Phone	510.987.9893
Email	Reynaldo.cano-boza@ucop.edu
Address	7835 Trade Street, Suite 100
	San Diego, CA 92121

7. Reporting Requirements

Quarterly and Monthly Reports as described in Attachment C, including:

Quarterly – Recycling & Reclamation
Quarterly – Small Business Utilization
Monthly – Purchases

Supplier agrees to register and participate in an assessment of their sustainability practices and procedures through EcoVadis Corporate Social Responsibility (CSR) monitoring platform within 60 days of agreement signature.

Supplier agrees to provide other reports as reasonably requested by UC during the Term of the Agreement and any extension(s) to the Term at no additional cost to UC.

8. Service Level Agreement

During the Term of the Agreement, and any extension(s) of the Term, Supplier will meet Service Levels defined under section 5 requirements as defined in University of California Request for Proposal "#001225-May2019 - University of California Systemwide Flooring".

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The minimum service standards set forth above recognize that occasional errors are likely; however, Supplier further agrees to use its best efforts to achieve 100% of service levels. Should the service levels fall below the minimum standards and Supplier does not take corrective action within fourteen (14) days following UC written notification, UC reserves the right to terminate the Agreement immediately.

9. Program Requirements

Order Packaging and Labeling. Supplier agrees that each UC order will be individually wrapped and labeled with the following information:

Purchase Order number;

Product description, quantity and catalog number of the product ordered and an open 30-character field for internal identification e.g., UC storehouse catalog numbers and/or internal customer order numbers; and

Other information, as may be requested by ordering UC Location.

Packaging slips will be attached to the outside of the package such that it can be inspected by UC at the requesting department and/or receiving dock.

Receiving Locations. Supplier agrees to provide desktop and dock delivery to all UC current and future authorized personnel delivery points, as requested by UC.

Standard Delivery Requirements. Supplier will deliver Monday through Friday, excluding UC- and Supplier-observed holidays. Supplier provide UC with a schedule on or before September 1 of the following calendar year showing holidays and other planned shutdowns (such as the annual inventory) that would impact Supplier's ability to deliver the Goods and/or Services. Supplier agrees to deliver all UC orders received by 3:30pm Pacific Time the next business day as follows:

Campus direct (desktop delivery)	- by 3:30 pm Pacific Time
Storehouse (drop ship delivery)	- by 10:00 am Pacific Time

Delivery Delays. Supplier will report any delivery delay whatsoever to the ordering Location, as well as its cause, within two (2) hours after Supplier is able to reasonably determine there will be a delay; the report will be provided to UC by telephone, e-mail, or facsimile. Supplier will keep UC fully informed and will take all reasonable action in eliminating the cause of delay.

Returns. Supplier agrees to accept standard Goods returned by UC if in resalable condition and if made within thirty (30) days of original shipment. Returns of standard goods may result in a 15% restocking fee, as well as any applicable shipping charges. Returns will not be allowed on custom or made to order styles. Supplier agrees to pay freight on any returns resulting from an error in shipment including, but not limited to, incorrect style, quantity, location, etc.

Credit. Requests for credit can be transmitted by the ordering UC personnel via the established order management system (telephone, fax, paper return form, and web-based). Chargebacks and credit memos will be issued to UC ordering departments in the current month's billing period. Return items will be credited at cost. If Goods were purchased via UC purchasing card, credit must be issued to the same purchasing card.

Out of Stock Items. If there is an out of stock situation of any ordered inventoried item(s), the out of stock item will be added to the back order file and will be delivered to UC when the item is in stock without a further order being submitted.

Surveys. Supplier will, at UC's request, conduct customer surveys of UC orders through questionnaires. The content of these surveys will be approved by UC. UC will be responsible for the tabulation of these surveys.

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10. Partnership Opportunities

Upon mutual terms, Supplier and UC Campuses may engage in partnership opportunities that align the teaching, research and service mission of the University with strategic supplier relationships. These opportunities allow the Supplier to more directly impact student, faculty, staff, and alumni stakeholders throughout the University. Opportunities may include, but are not limited to:

- Student Internship & Career Development Opportunities
- Projects & Research focused on advancing sustainability of flooring products & services
- Guest lecture opportunities for design, engineering, sustainability, and business disciplines
- Sponsorship of Intercollegiate Athletics, Alumni, Associated Student Groups, etc.

11. Changes to the Services

UC may desire to change the Goods and/or Services following execution of an SOW. If so, UC will submit a written Amendment to Supplier describing the changes in appropriate detail. If an Amendment does not require Supplier to incur any additional material costs or expenses, then Supplier will make the modification within ten (10) business days of Supplier's receipt of UC's Amendment. If an Amendment does require that Supplier incur additional material costs or expenses, then Supplier in good faith will provide UC with a written, high level, non-binding assessment of the costs and expenses and the time required to perform the modifications required by the Amendment, within ten (10) business days of Supplier's receipt of UC's Amendment. UC will notify Supplier in writing within ten (10) business days after receipt of Supplier's response to the Amendment as to whether UC wishes Supplier to implement the Amendment based on the response. UC will compensate Supplier for implementation of an Amendment in accordance with the terms and conditions of the relevant Amendment and Supplier's response to the Amendment, if any. Supplier's implementation of an Amendment will not delay the performance of Services and/or the delivery of deliverables not reasonably affected by an Amendment.

12. No Mandatory Use

Because there is no mandatory use policy at UC, nothing in this Statement of Work will be construed to prevent UC from entering into similar agreements with any third parties including, without limitation, suppliers that may be in competition with Supplier.

This Statement of Work is signed below by the parties' duly authorized representatives.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	**Milliken Services, LLC**
DocuSigned by: Justin Sullivan (Signature)	DocuSigned by: Tamlin Antoine (Signature)
Justin Sullivan Executive Director (Printed Name, Title)	Tamlin Antoine Director of Government Sales (Printed Name, Title)
4/23/2020 (Date)	4/20/2020 (Date)

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ATTACHMENT 1

Milliken

Attachment B - University of California Price Schedule

Confidential Information

UCOP Agreement #2020002150

Product Name/Category	Product Size	Member Cost Freight Included	MSRP	Percent Discount off MSRP	Additional Volume Based Discounts	Disclosure of Chemicals of Concern	Does Product have an EPD	Third Party Certifications
Modular Carpet Products (Per Sq. Yd)								
Arcadia	1m, 25cmx1m	$ 25.10	$ 108.65	76.90	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Archipelago	50cm	$ 29.09	$ 113.75	74.43	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Arctic Survey	25cm x 1m	$ 38.76	$ 130.79	70.37	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
City Proper	50cm	$ 33.59	$ 111.59	69.89	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Common Thread	50cm	$ 23.62	$ 81.65	71.07	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Continental	25cm x 1m	$ 32.77	$ 108.99	69.93	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Formwork	50cm, 25cm x 1m	$ 26.98	$ 77.69	65.27	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Ghost Artist Collection	50 cm	$ 35.89	$ 71.39	49.72	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Journal	50CM	$ 26.32	$ 91.99	71.39	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Major Frequency: One	25cm x 1m	$ 28.90	$ 54.99	47.44	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.

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Major Frequency: Two	25cm x 1m 50cm x 1m	$ 23.09	$ 40.99	43.66	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Monuments & Shrines	50cm	$ 34.13	$ 101.15	66.25	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Motionscape	25cm x 1m	$ 29.33	$ 91.35	67.90	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
New Slant	25cm x 1m	$ 39.23	$ 128.85	69.56	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Nordic Stories - Loop & Tip Shear	50cm	$ 28.43	$ 83.99	66.15	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Sound and Fury	50cm	$ 32.96	$ 96.15	65.72	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Southern Analog	50cm	$ 33.95	$ 76.79	55.79	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Surface Study-Surface Study	50cm	$ 27.92	$ 107.29	73.98	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.

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Textured Sky	25cm x 1m 50cm x 50cm	$ 41.64	$ 126.59	67.11	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Whale Song	50cm	$ 32.14	$ 114.99	72.05	No	Flame Retardants	Yes	Cradle to Cradle Silver, Declare, CRI Green Label Plus, NSF 140 Gold. Milliken Carpet Tile can meet NSF 140 Platinum if required.
Broadloom Carpets (Per Sq. Yd.)								
Formwork	13'6"BL	$ 19.17	$ 28.89	33.66	No	Flame Retardants	Yes	Declare, CRI Green Label Plus, NSF 140 Gold
Adhesives, Backing Treatments, and	**UOM**							
TractionBack - Non Adhesive Backing	Per Sq. Yd.	$ 1.51						
Milliken Non-Reactive Standard Adhesive (4 gallon pail) - 150 sq. yd.avg. spread rate per pail	4 Gallon	$ 126.16						
Milliken Non-Reactive Standard Adhesive (pallet qty.)	4 Gallon	$ 119.72						
Milliken Moisture Extreme Spray Adhesive 75 sq. yd. spread rate per 6-pack	6 packs	$ 797.63						
Milliken LVT Adhesive Spread Rate 220-260 sq. ft./gallon	1 Gallon	$ 38.12						
Milliken LVT Adhesive Spread Rate 220-260 sq. ft./gallon	4 Gallon	$ 129.03						
Acousti-Loc Adhesive Porous - 200 sqft / gallon, Non Porous - 250 sqft / gallon	2 Gallon	$ 139.59						
Premium Underlayment for Luxury Vinyl Tile	100 Sq. Ft. (4 Rolls/Box)	$ 283.87						
Broadloom Adhesive - 4 gal pail 30 sq. yd. avg. spread rate per pail	4 Gallon	$ 72.27						
Broadloom Adhesive (pallet Qty.)	4 Gallon	$ 68.69						
LVT Products (Per Sq. Ft.)								
Abstract - Fibre	18" x 36"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Abstract - Twist	18" x 18"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
District Collection - Midtown Village	18" x 18"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Stone - Charlotte, Slate	18" x 18"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Stone - Serpeggiante	12" x 24"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Stone - Stone	18" x 36"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Wood - Apple Wood, Oak,	5" x 48"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Wood - Cherry, Eucalyptus Saligna, Fine Line, Kokutan, Laurel Oak, Rosecliff Cherry, Rosewood, Rustic Pine, Teak	7" x 48"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Wood - Aged Oak, Fissure Oak	9" x 48"	$ 3.33	$ 3.59	7.24	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Loose Lay Abstract - Immersive Cross Cut, Immersive Vertical	7.9" x 39.4"	$ 4.50	$ 4.69	4.05	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Loose Lay Abstract - Immersive Square, Tactual	19.7" x 19.7"	$ 4.50	$ 4.69	4.05	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Loose Lay Abstract - Sensations. Tangible	18" x 36"	$ 4.50	$ 4.69	4.05	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Loose Lay Abstract - Power Grid, Polished Concrete	36" x 36"	$ 4.50	$ 4.69	4.05	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD
Loose Lay Natural Collection - Fargesia Bamboo, Heritage Wood, Eero, Shenandoah, Pike, Gunnison	9" x 59.72"	$ 4.50	$ 4.69	4.05	No	Polyvinyl Chloride	Yes	Dec are, FloorScore, EPD

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Metro Park Rigid Form - Shenandoah, Pike, Kokutan, Euclaytus Saligna, Applewood Heritage Wood	7" x 48"	$ 4.06	$ 5.00	18.83	No	Polyvinyl Chloride	Yes	Declare, FloorScore
Metro Park Rigid Form - Tangible	18" x 36	$ 4.06	$ 5.00	18.83	No	Polyvinyl Chloride	Yes	Declare, FloorScore
							Yes	
Change Agent Relic - Rune, Philosphy, Virtue, Shrine, Antiquity, Heirloom, Artifact, Fortune, Hero, Elixir, Figure, Quest	25cm x 100cm	$ 4.74	$ 4.79	1.07	No	Polyvinyl Chloride	Yes	Declare, FloorScore
Change Agent Conjure - Arise, Spirit, Ember, Nexus, Ash, Cycle, Coal	25cm x 150cm	$ 4.74	$ 4.79	1.07	No	Polyvinyl Chloride	Yes	Declare, FloorScore
Change Agent Rootwork - Enchant, Harvest, Sacred, Divine, Crest, Honor, Revere, Heir, Legend	25cm x 150cm	$ 4.74	$ 4.79	1.07	No	Polyvinyl Chloride	Yes	Declare, FloorScore
Max Order from Inventory - 200m^2, 240yd^2, 2160ft^2								
Installation Prices ("NOT TO EXCEED" costs)								
Actual Installation costs will require site review and estimate								
Cove base: furnish and install 4"	LNF	$ 2.75						
Cove base: Furnish and install 4.5"	LNF	$ 2.90						
Cove base: furnish and install 6"	LNF	$ 3.00						
Transition strips: Metal (furnish&install)	LNF	$ 4.00						
Transition strips: Vinyl (furnish&install)	LNF	$ 4.00						
Stair nosing (furnish and install)	LNF	$ 5.00						
Stair tread (furnish and install)	LNF	$ 40.00						
Floor Prep	Per Sq. Ft.	$ 1.00						
Furnish and Install Standard VCT	Per Sq. Ft.	$ 2.75						
Furnish and Install SRT/VCT Slip Resistant	Per Sq. Ft.	$ 7.00						
Install LVT	Per Sq. Ft.	$ 2.75						
Underlayment Install - NTE Level	Per Sq. Ft.	$ 2.25						
Remove VCT or LVT	Per Sq. Ft.	$ 1.75						
*Furnish and Install Hard Surface Tile/Wood/Rubber Tile	Per Sq. Ft.	$ 20.00						
*Note this price includes setting materials, grout and base but does not include epoxy, mud bed or waterproofing								
Labor: Material Handling/Staging	Per Sq. Yd.	$2.00						
Labor: Hard Surface Tile Removal	Per Sq. Ft.	$ 5.00						
**Scarify Subfloor	Per Sq. Ft.	$ 1.10						
**Note this services requires a $500 minimum trip charge								
Install Carpet cove base	LNF	$ 4.00						
Labor: install carpet (rennovation)	Per Sq. Yd.	$ 9.00						
Labor: install carpet (new construction)	Per Sq. Yd.	$ 8.50						
Labor: remove existing carpet	Per Sq. Yd.	$ 3.50						
Labor: move furniture (light moving)	Per Sq. Yd.	$ 5.00						
Labor: move furniture (medium moving)	Per Sq. Yd.	$ 9.00						
Labor: move furniture (heavy moving)	Per Sq. Yd.	$ 27.00						
Labor nights & weekends upcharge	Per Sq. Yd.	$ 5.00						
Material disposal	Per Sq. Yd.	$ 1.25						
Labor: Stairs	LNF	$ 3.00						
30 Yard Dumpster	Each	$ 1,000.00						
Moisture Abatement		quote per project						
Moisture Testing: Per Test NTE (Includes tests and labor/time to set and read)	Each	$ 250.00						
Project Management Fee on Turnkey projects		up to 20% of contract value						

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Authorized Exceptions and Notes to Pricing Listed Above:

>Per F.A.R. Sec ion 52.299-4 c, the vendor will charge for reimbursement of taxes imposed on the contractor

>When Installation is purchased, the contract price will be increased in States where State and, or Local taxes are applicable for installed projects

>All Installa ion projects are subject to an administrative processing fee

>Prevailing Wage, Union Labor, and High-Cost Areas are not included in pricing listed above. Pricing for hese projects will be project and quote specific according to the specific market.

High-Cost areas include, but are not limited to the following: Boston, Chicago, Kansas City, Los Angeles, Miami, New York, Philadelphia, San Diego, San Francisco, St. Louis, Washington, D.C.

>Open Market Items: Certain projects may require products and services not listed in the contract. These items will be priced and provided at open market price.

>Project Minimums: Carpet Installation Pricing is for projects of 250sy or more. If project requires less than 250sy, minimum charges may apply.

>Project Minimums: LVT/VCT Installation Pricing is for projects 750sf or more. If project requires less than 750sf, minimum charges may apply.

>Turnkey Invoicing: Material will be invoiced as it is shipped (or phased) and labor will be invoiced upon completion of project.

>Exclusions: Asbestos Testing and Abatement, Major floor prep and Leveling, Hoisting, Handling electronic equipment including (but not limited to) computers, telephones and personal belongings.

Payment and Performance Bonds, Floor and Equipment protection and Long Term Storage of Materials.

> Mobilization charges may apply if installation crew arrives on project site and cannot perform scheduled work due to unexpected conditions by customer.

All Prices include freight (FOB Destination, contiguous U S) Orders should be entered as inclusive of Freight

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ATTACHMENT 1

SUPPLIER Milliken Services		NorCal (Area 1 - UCB,UCSF)		NorCal (Area 2 - UCSC)		NorCal (Area 3 - UCD)		NorCal (Area 4 - UCM)		SoCal (Area 1 - UCLA, UCI, UCR, UCSB)		San Diego - UCSD	
Labor Description	**UOM**	**Standard Rates**	**Prevailing Wage**	**Standard Rates**	**Prevailing Wage**	**Standard Rates**	**Prevailing Wage**	**Standard Rates**	**Prevailing Wage**	**Standard Rates**	**Prevailing Wage**	**Standard Rates**	**Prevailing Wage**
Installation Carpet Tile	SqYD	$ 9.00	$ 14.50	$ 9.00	$ 14.50	$ 9.00	$ 11.00	$ 9.00	$ 14.50	$ 9.00	$ 13.25	$ 9.00	$ 12.00
Removal of Carpet Tile	SqYD	$ 3.50	$ 5.00	$ 3.50	$ 5.00	$ 3.50	$ 5.25	$ 3.50	$ 5.00	$ 3.50	$ 4.75	$ 3.50	$ 4.00
Installation Broadloom (direct glue down)	SqYD	$ 9.00	$ 18.50	$ 9.00	$ 18.50	$ 9.00	$ 10.50	$ 9.00	$ 18.50	$ 9.00	$ 13.25	$ 9.00	$ 11.50
Installation Broadloom (w/Pattern)	SqYD	$ 9.00	$ 22.50	$ 9.00	$ 22.50	$ 9.00	$ 10.50	$ 9.00	$ 22.50	$ 9.00	$ 13.25	$ 9.00	$ 11.50
Removal of Broadloom (direct glue down)	SqYD	$ 3.50	$ 5.50	$ 3.50	$ 5.50	$ 3.50	$ 5.50	$ 3.50	$ 5.50	$ 3.50	$ 4.75	$ 3.50	$ 4.50
Removal of Double Stick Installation	SqYD	$ 7.00	$ 8.50	$ 7.00	$ 8.50	$ 7.00	$ 7.50	$ 7.00	$ 8.50	$ 7.00	$ 8.00	$ 7.00	$ 7.50
Removal/Disposal Resilient Flooring	SqFt	$ 2.00	$ 4.00	$ 2.00	$ 4.00	$ 2.00	$ 2.50	$ 2.00	$ 4.00	$ 2.00	$ 3.00	$ 2.00	$ 2.50
Carpet Disposal	SqYD	$ 1.25	$ 1.75	$ 1.25	$ 1.75	$ 1.25	$ 1.50	$ 1.25	$ 1.75	$ 1.25	$ 1.50	$ 1.25	$ 1.50
Carpet Reclamation Fee	SqYD	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00	$ 2.00
Installation of VCT	SqFt	$ 2.75	$ 4.00	$ 2.75	$ 4.00	$ 2.75	$ 3.00	$ 2.75	$ 4.00	$ 2.75	$ 3.50	$ 2.75	$ 3.00
Installation of Luxury Vinyl Tile	SqFt	$ 2.75	$ 5.00	$ 2.75	$ 5.00	$ 2.75	$ 3.50	$ 2.75	$ 5.00	$ 2.75	$ 4.50	$ 2.75	$ 3.50
Installation of Rubber (Tile or Roll)													
Installation of Sheet Vinyl													
Heat Welding (Sheet Vinyl)													
Installation Flash Cove (Sheet Vinyl)													
Palletize/Shrink Wrap Old Carpet for Reclamation	SqYD	$ 1.50	$ 2.00	$ 1.50	$ 2.00	$ 1.50	$ 2.00	$ 1.50	$ 2.00	$ 1.50	$ 2.00	$ 1.50	$ 2.00
Conventional Furniture Moving (Light)	SqYD	$ 5.00	$ 15.00	$ 5.00	$ 15.00	$ 5.00	$ 9.00	$ 5.00	$ 15.00	$ 5.00	$ 12.50	$ 5.00	$ 10.00
Conventional Furniture Moving Medium)	SqYD	$ 9.00	$ 17.00	$ 9.00	$ 17.00	$ 9.00	$ 11.00	$ 9.00	$ 17.00	$ 9.00	$ 15.00	$ 9.00	$ 12.00
L I F T Systems / Carpet Tile Projects Only	SqYD	$ 20.00	$ 27.00	$ 20.00	$ 27.00	$ 20.00	$ 21.00	$ 20.00	$ 27.00	$ 20.00	$ 25.00	$ 20.00	$ 22.50
Moisture Testing	EACH	$ 250.00	$ 300.00	$ 250.00	$ 300.00	$ 250.00	$ 300.00	$ 250.00	$ 300.00	$ 250.00	$ 300.00	$ 250.00	$ 300.00
Furnish/Install Resilient 4" Base	Linear FT	$ 2.75	$ 4.00	$ 2.75	$ 4.00	$ 2.75	$ 3.00	$ 2.75	$ 4.00	$ 2.75	$ 3.75	$ 2.75	$ 3.25
Furnish/Install Resilient 6" Base	Linear FT	$ 3.00	$ 5.50	$ 3.00	$ 5.50	$ 3.00	$ 3.50	$ 3.00	$ 5.50	$ 3.00	$ 5.00	$ 3.00	$ 4.00
Furnish/Install Carpeted 4" Base													
Furnish/Install Carpeted 6" Base													
Furnish/Install Transition	Linear FT	$ 4.00	$ 6.50	$ 4.00	$ 6.50	$ 4.00	$ 4.50	$ 4.00	$ 6.50	$ 4.00	$ 6.00	$ 4.00	$ 5.00
Tile Laying & Installation	SqFt	$ 20.00	$ 25.00	$ 20.00	$ 25.00	$ 20.00	$ 25.00	$ 20.00	$ 25.00	$ 20.00	$ 25.00	$ 20.00	$ 25.00
Floor Prep - Skim Coating to 1/8 inch (Material & Labor)	SqFt	$ 1.00	$ 3.50	$ 1.00	$ 3.50	$ 1.00	$ 2.50	$ 1.00	$ 3.50	$ 1.00	$ 3.25	$ 1.00	$ 3.00
Floor Prep Self leveling to 1/4 inch (Material & Labor)	SqFt	$ 2.00	$ 5.50	$ 2.00	$ 5.50	$ 2.00	$ 4.00	$ 2.00	$ 5.50	$ 2.00	$ 3.75	$ 2.00	$ 5.50
Hourly Rate for Services Not Listed	Hourly Labor Rate	$ 95.00	$ 145.00	$ 95.00	$ 145.00	$ 95.00	$ 125.00	$ 95.00	$ 145.00	$ 95.00	$ 120.00	$ 95.00	$ 105.00
Project Management Fees	EACH	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%	20%
Installation ADD ON - Night/Weekend	SqYD	$ 5.00	$ 6.50	$ 5.00	$ 6.50	$ 5.00	$ 3.50	$ 5.00	$ 6.50	$ 5.00	$ 6.00	$ 5.00	$ 5.50
Installation ADD ON - Sunday	SqYD	$ 10.00	$ 13.00	$ 10.00	$ 13.00	$ 10.00	$ 7.00	$ 10.00	$ 13.00	$ 10.00	$ 12.00	$ 10.00	$ 11.00

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ATTACHMENT 1

SUPPLIER: Milliken Services	**New York Region 1:** Bronx, Queens, Kings, Richmond, Nassau, Suffolk, Putnam, Westchester & Orange Counties	**New York Region 2:** Erie, Niagara, St. Lawrence, Franklin, Essex, Jefferson, Lewis, & Hamilton Counties	**New York Region 3:** Remainder of State of New York	**Northeast Region:** MA, ME, VT, NH, CT, RI, PA, VA, DC, RI, MD, DE, NJ		**Southeast Region:** AL, FL, GA, KY, NC, SC,		**South:** AR, AZ, TX, LA, MS		**Central:** KS, OH, MI, MN, WI, MO, OK, MS, NE, IA, PA, IL, IN		**West** CA, CO, HI, AK, NV, NM, OR, WA, WY, MT, ID, SD, ND, UT		**Non-Continental:** AK & HI	
Labor Description	**Labor Rate**	**Labor Rate**	**Labor Rate**	**Non Union Rate**	**Union Wage Rate**	**Non Union Rate**	**Union Wage Rate**	**Non Union Rate**	**Union Wage Rate**	**Non Union Rate**	**Union Wage Rate**	**Non Union Rate**	**Union Wage Rate**	**Non Union Rate**	**Union Wage Rate**
Monday - Friday Standard 8 Hour Shift	$ 175.00	$ 165.00	$ 150.00	$ 115.00	$ 150.00	$ 60.00	$ 80.00	$ 65.00	$ 85.00	$ 95.00	$ 125.00	$ 110.00	$ 145.00	$ 135.00	$ 175.00
Monday - Friday Overtime	$ 262.50	$ 247.50	$ 225.00	$ 172.50	$ 225.00	$ 90.00	$ 120.00	$ 97.50	$ 127.50	$ 142.50	$ 187.50	$ 165.00	$ 217.50	$ 202.50	$ 262.50
Saturday	$ 262.50	$ 247.50	$ 225.00	$ 172.50	$ 225.00	$ 90.00	$ 120.00	$ 97.50	$ 127.50	$ 142.50	$ 187.50	$ 165.00	$ 217.50	$ 202.50	$ 262.50
Sunday & Holiday	$ 350.00	$ 330.00	$ 300.00	$ 230.00	$ 300.00	$ 120.00	$ 160.00	$ 130.00	$ 170.00	$ 190.00	$ 250.00	$ 220.00	$ 290.00	$ 270.00	$ 350.00

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Attachment C – Reporting Requirements

Supplier must provide electronic reports (in Microsoft Excel) to designated UC contacts providing a wide range of information, at both the system-wide and campus level, related to the Agreement including, but not limited to:

Recycling & Reclamation

On a quarterly basis, Supplier will report recycling and reclamation efforts on supplier lead projects throughout the system. Supplier lead projects refer to Services performed by the Suppliers subsidiary InterfaceSERVICES, Inc. under the guidelines note here and outlined in the Interface Reclamation Assurance Letter submitted with the RFP response:

- Services are performed by InterfaceSERVICES, Inc.,
- Interface products are being installed; and
- compliant material is the scope of work.

It is required that 100% of existing carpet, including carpet padding, be taken to a recycling facility that accepts carpet for recycling unless otherwise required by law. Recycling means turning any manufacturer's old carpet or carpet components into new carpet or other consumer products.

Any exception to the recycling requirement will be communicated to the campus project contact and captured in Recycling & Reclamation reporting.

Supplier will format quarterly report in the following manner:

Column Title	Description	Column Mapping
UC Campus	Site of Work	A
Project Description	Building/Location	B
Project Purchase Order	Project PO Number	C
Type of Material	Carpet | LVT | Rubber | Linoleum | Etc.	D
Amount of Material	Sq Ft/Yd captured	E
Reclamation Method	Recycled|Incinerated|Other	F
Final Disposal Site	Company/Location of Final Disposition	G
Cost of Reclamation	Invoiced Amount for Service	H
Certificate of Disposal Provided	Yes (Y) or No (N) – Certificate Number	I

Small Business Utilization

On a quarterly basis, Supplier will report Small Business utilization on all Supplier lead projects.

In support of University of California Sustainable Practices guidelines that aim to reach 25% Economically and Socially Responsible Spend as a total percentage of addressable spend, supplier will make best effort to achieve 50% utilization of SBA designated subcontractors to perform services across the University of California system.

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Supplier will format quarterly reporting in the following manner:

Column Title	Description	Column Mapping
UC Campus	Site of Work	A
Project Description	Building/Location	B
Project Purchase Order	Project PO Number	C
Subcontractor	Name of Subcontractor Business	E
Subcontractor's SBA Designation	Certified SBA Class	F
Total Invoice Amount for Services	All Labor Billing Performed by SBA	G
DIR Project ID	DIR Project Number	H

University of California Sales Reporting

Monthly, Supplier will provide full reporting of all sales captured under this agreement. Supplier will report sales made directly to the University, as well as any University sales reported through Supplier's distribution network.

Supplier will provide monthly sales reporting in the following format:

Column Title	Description	Column Mapping
UC Campus	Site of Work	A
Project Description	Building/Location	B
Project Purchase Order	Project PO Number	C
Category	Product | Service | Freight | Reclamation	E
Line Item Detail	SKU | Style | Labor Category	F
Total Invoice Amount for Line F	Total Amount Billed in USD ($)	G
Billing Date	DD/MM/YY	H

Earned Growth Incentives

During the Term of the Agreement, and any extension(s) to the Term, Supplier agrees to provide UC campuses [redacted]

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UNIVERSITY OF CALIFORNIA

Appendix- Electronic Commerce

This Electronic Commerce Appendix specifies the electronic commerce requirements applicable to Supplier in providing the Goods and/or Services.

SECTION 1 - GENERAL TERMS

Each UC Location offers an electronic web-based purchasing and catalog system to facilitate the purchase of Goods and/or Services from UC suppliers. UC Locations' eProcurement systems currently are provided by multiple service providers. Eight of the ten UC campuses utilize the same platform but may require separate implementations, as will the remaining campuses and/or Medical Centers. This Appendix sets forth the terms and conditions that will govern Supplier's sale of Goods and/or Services through UC's eProcurement systems.

SECTION 2 - DEFINITIONS

Catalog(s) refers to the list of detailed product information, agreement pricing, manufacturer part numbers and/or service descriptions relating to the Goods and/or Services to be offered either as a Punch-out Catalog, a Hosted Catalog or in a combination. This may include the creation of multiple Hosted Catalogs.

eProcurement and eCommerce are used interchangeably to mean UC's electronic web-based purchasing and catalog systems. Each UC location has a branded eProcurement site.

Go Live Date means the date on which a Catalog will be active.

Hosted Catalog means a Catalog that is a properly formatted computer file supplied to all UC Locations through the Locations' respective eProcurement systems.

Order means a purchase order for Goods and/or Services placed by a User through an eProcurement system.

Order Data means all data and information relating to Orders, including, without limitation, the specifics of a given transaction.

Punch-out Catalog means a Catalog hosted by Supplier on Supplier's Site. Users may access this Punch-out Catalog via an Internet link provided by Supplier to UC that redirects a User from the Location's eProcurement system to Supplier Site.

Supplier Mark means Supplier's name, trade name and/or trademarks, service mark, or any derivation thereof.

Supplier Site means an internet site operated and maintained by Supplier that has been made subject to this Appendix.

UC Mark means UC's name, trade name and/or trademarks, service marks, or any derivation thereof.

User means an individual authorized by a UC location to use an eProcurement system.

SECTION 3 – RIGHT TO USE

UC grants to Supplier the right to sell Goods and/or Services to UC through the eProcurement systems, subject to the terms of this agreement. Supplier will be responsible for any cost of operation or dispute with regard to its interface with UC's eProcurement systems.

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SECTION 4 – e-PROCUREMENT SYSTEM RESPONSIBILITIES; MAINTENANCE OF CATALOG(S); LICENSE

(a) e-Procurement Incentive
During the Term of the Agreement, and any extension(s) to the Term, Supplier agrees to provide UC Campuses annual incentive of 2% of net sales of products and services for e-Procurement activation. Incentive will be available to campuses that implement and activate Supplier's catalogue, whether hosted or punch-out.

(b) e-Procurement System Responsibilities.
Except as otherwise set forth herein, each party will be responsible, at its own expense, for: (i) developing, operating and maintaining its relevant system(s); (ii) acquiring and maintaining its server hardware and software (or obtaining third-party hosting services) for its relevant system(s); and (iii) maintaining Internet connectivity.

The supplier will enable its catalog with any UC location that requests one, as long as it is not out of the scope of the terms of the agreement or this appendix. The parties agree to electronically link the functionality of their respective systems, using commercially reasonable efforts.

Purchase Order and Invoice/Credit Memo Data will be transmitted between the systems according to the appropriate method for each University location, cXML, xCBL or EDI standards being preferred. Other methods of PO or Invoice/Credit Memo transmission will only be allowed at the discretion of each University location.

A supplier's Punch-out site (if applicable) will permit: (a) Users to access the Supplier Site when a User selects the Punch-out Catalog; (b) Supplier site to send back user selected items to Location's eProcurement system; (c) User to create an Order through the Location's eProcurement system; and (d) UC eProcurement systems to forward an Order to Supplier for confirmation and Order processing along with Order status inquiry.

Supplier must be able to accommodate orders and invoices for multiple UC locations sharing a single eProcurement platform. Supplier must be able to identify the Punch-out session and transmitted PO as being from the individual locations. If providing a Punch-out catalog, Supplier must be able to accommodate multiple UC locations on a single platform using a single Punch-out site, unless requested otherwise by UC.

(c) Maintenance of Hosted and Punch-out Catalogs.
Supplier will provide its Catalog(s) to UC in a file format that will interface seamlessly with UC's eProcurement systems. These Catalog files will be in compliance with each UC Location's eProcurement system.

UC makes no guarantee of a Go Live Schedule for establishment of a new catalog Systemwide, as each Location is a separate enablement and subject to resource availability. Timelines will be estimated and adjusted by UC as needed for concurrent implementations.

For Hosted Catalogs, Supplier must provide UC with updated versions of the Catalog file with, at a minimum, full descriptions and images that Supplier currently utilizes for items offered in its proprietary websites and Punch-out Catalogs. The parties will update each other regarding eCommerce specifications as needed from time to time.

Supplier must notify UC's Contract Administrator at least three (3) weeks in advance of the proposed Go Live Date if it will be requesting additions, deletions, or modifications to the Catalogs. After such advance notification, Supplier must provide UC with Catalog files containing the requested additions, deletions, or modifications with no less than the lead time specified in Section 10 of this appendix. In addition, for price file updates with a mutually agreed upon activation of January 1, Supplier must submit proposed files at least five (5) weeks prior to the first working day in January. Upon UC's approval of the new Catalog file, UC and Supplier will confirm the Go Live Date; the updated version of the Catalog file will be made effective on that Go Live date. If UC rejects a Catalog more than once because it does not meet UC's acceptance criteria, the Contract Administrator will suspend Supplier's price/content change until the date of Supplier's next acceptable contracted change.

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If there is a conflict between a price in a Hosted Catalog and a Punch-out Catalog, UC will be invoiced at the lower price. Supplier must notify UC in advance when substituting items, changing SKU numbers or changing the number of items in a package in any Catalog.

Content in Supplier catalog is limited to the categories specified in this agreement, with additional categories allowed at UC's discretion. Supplier agrees that UC may block Catalog items at the category and/or SKU level.

The University will require Supplier to clearly identify products as Hazardous Materials, Radioactive, and Controlled Substances in the Supplier's catalog, whether Hosted or Punch-out. For Punch-out the identifier will be returned to the cart of the Location's eProcurement system, in a manner/field acceptable to the Location.

The University will require Supplier to clearly identify products with UC-recognized sustainability/green certifications in both hosted and Punch-out catalogs. UC's Contract Administrator will work with Supplier to ensure that contract items that meet the UC criteria for Green/Sustainable products will be prioritized in all product searches. Products that do not meet UC's minimum criteria requirements may be blocked in all hosted catalogs and Punch-out catalogs at UC's discretion.

Supplier is responsible for providing UC with Catalogs that contain accurate pricing and data in accordance with the Agreement. If UC determines there are errors in the pricing or data attributes of a Catalog, UC will notify Supplier of those errors in writing and reject the Catalog. Supplier will have no more than ten (10) business days to review and correct the errors.

(d) License.
Supplier hereby grants to UC, at no additional cost, a limited, non-exclusive, royalty-free right to link to and access the Supplier Site from the eProcurement sites, subject to the terms and conditions herein and solely for the purpose of permitting Users to access the Services. All Supplier Marks will remain the sole property of Supplier.

(e) Accessibility Requirements.
Supplier agrees that Supplier will make available Goods/Services accessible to people with disabilities and conform to the technical requirements of the relevant Revised Standards of Section 508 of the federal Rehabilitation Act. In addition, Supplier warrants that:

i. Any catalog content provided to UC will comply with the accessibility requirements of WCAG 2.0AA.
ii. Supplier will promptly respond to and resolve any complaint regarding accessibility of any catalog content provided to UC.

SECTION 5 – USER SUPPORT

(a) UC Duties. Each UC Location will provide its Users with initial contact and system support assistance on all functionality and use issues for eProcurement (including links to the Supplier Site). When known, UC will promptly notify Supplier of any such issues relating to the Catalog, the Supplier Site, and/or other Supplier materials/systems.

(b) Supplier Duties. Supplier will provide all customer support relating to the Catalog, Supplier Goods and/or Services, Invoicing/Payment/Credits, and Supplier Sites in a manner consistent with the customer support that Supplier provides to other customers, and at least as good as the customer support that Supplier provides to customers who are purchasing through any other means.

SECTION 6 – PROPRIETARY RIGHTS

UC's Terms and Conditions of Purchase contains provisions regarding the parties' rights and responsibilities with respect to intellectual property relating to the Goods and Services. Without altering those provisions, the parties

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additionally agree as follows: UC may require Supplier to "brand" Supplier's Punch-out Catalog with one or more UC Marks. If UC requires Supplier to utilize one or more UC Marks on Supplier's Punch-out Catalog, UC will provide the appropriate artwork and such artwork will be deemed to have been provided with a limited, non-exclusive, non-sub-licensable right for Supplier to use it solely for the purpose of a UC-branded Punch-out Catalog hosted by Supplier and subject to the following terms:

(i) Supplier may not make any additional use of the UC Marks without UC's prior written approval.

Supplier's use of the UC Marks in the Punch-out Catalog must acknowledge UC's ownership of the UC Marks. Supplier will include all notices and legends with respect to UC trademarks, trade names, or copyrights as may be required by applicable trademark and copyright laws or which may be reasonably requested by UC. Supplier agrees not to claim any title to UC Marks or any right to use UC Marks except as permitted by this Appendix. Upon termination of this Appendix or the Agreement, all rights to UC Marks conveyed by UC to Supplier will cease and Supplier will destroy or return to UC all media with UC Marks. UC specifically reserves any and all rights to UC Marks not specifically granted to Supplier.

Supplier grants to UC the right to use Supplier's trademarks, logos, trade names, and service marks for the purpose of promoting UC eProcurement sites to the UC community. UC acknowledges Supplier's right, title, and interest in and to Supplier's Marks and Supplier's exclusive right to use and license the use of Supplier Marks and agrees not to claim any title to Supplier Marks or any right to use Supplier Marks except as permitted by this Appendix. UC will include all notices and legends with respect to Supplier trademarks, trade names, or copyrights as may be required by applicable trademark and copyright laws or which may be reasonably requested by Supplier. Upon termination of this Appendix, all rights to Supplier Marks conveyed by Supplier to UC will cease and UC will destroy or return to Supplier all media with Supplier Marks. Supplier specifically reserves any and all right to Supplier Marks not specifically granted to UC.

(ii) The licenses granted in the previous paragraphs regarding UC Marks and Supplier Marks are subject to the ongoing approval of the party owning the respective trademarks, logos, trade names, or copyrights. Such ongoing approval includes the ability to terminate – at any time, for any reason, and in the sole discretion of the owner of the respective trademarks, logos, trade names, or copyrights – the trademark licenses provided in the preceding paragraphs for any particular trademark, logo, trade name, or copyrighted work without necessarily terminating this Appendix. Each party agrees not to take any action that will adversely reflect upon or damage the goodwill, reputation, or the brand value of the other party. Each party further agrees not to take any action that is inconsistent with the other party's ownership of the respective trademarks, trade names, or copyrights. At all times (including following termination of the Agreement), Supplier agrees to comply with Section 92000 of California's Education Code.

(a) Grant of License. Supplier hereby grants UC a non-exclusive, royalty-free: (i) license to use, copy, transmit, and display the Catalog, any information contained therein and the Supplier Marks for the purposes of permitting Customers to access information about and order Supplier Goods and/or Services from a Catalog and (ii) if Supplier is using a Punch-out Catalog, right to link to and access the Punch-out Catalog on the Supplier Site, for the purposes of permitting Customers to access the Supplier Website and permitting Customers to order Supplier Goods and/or Services.

(b) Modifications. UC will not modify or remove any of the proprietary rights markings in the Catalog. UC will not modify the content of the Catalog, except as indicated by Supplier, but may require Supplier to make and submit modifications if required as part of this agreement. However, for hosted catalogs, UC reserves the right to attach flags to catalog items as an aid to shoppers in selecting preferred items, such as green or recycled. UC will not make any representations or warranties, or provide any information, to any third party regarding any Supplier Goods and/or Services (including, but not limited to, any representations or warranties of any information regarding availability, delivery, pricing, characteristics, qualifications or specifications thereof). If UC believes in good faith that any Supplier information does not conform to the requirements of the associated UC Agreement or this Appendix,

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UC will be entitled to withdraw the Catalog from UC eProcurement sites. In such a case, UC will promptly notify the Supplier of the actions it has taken and will work with the Supplier promptly to resolve UC's concerns. When UC's concerns are satisfactorily resolved UC will promptly restore the Catalog, if appropriate. UC will have no liability to the Supplier or anyone else for exercising these rights.

(c) Acknowledgment. Each party acknowledges that the technology embodied in the other party's Site may be based on patented or patentable inventions, trade secrets, copyrights or other intellectual property or proprietary rights ("Intellectual Property Rights") owned by the other party and its applicable licensors.

(d) UC Rights. As between the parties, UC will be the sole owner of – or, with respect to any items licensed by UC, will retain all rights to all Intellectual Property Rights associated with UC eProcurement sites, including any modifications, updates, enhancements or upgrades to any of the foregoing, as well as any Order Data generated or collected on such site (collectively, the "UC Materials"). Except as provided herein, Supplier may not copy or use in any way, in whole or in part, any UC Materials without UC's prior written approval. Any permitted copies of such property, in whole or in part, alone or as part of a derivative work, will remain UC's sole property. Supplier agrees to reproduce and include UC's copyright, trademark and other proprietary rights notices on any permitted copies of UC Materials including, without limitation, partial copies and copied materials in derivative works. Supplier will not copy or reproduce any third-party copyrighted or trademarked materials, which appear on or are otherwise associated with any UC eProcurement site without UC's prior written consent.

SECTION 7 – MULTIPLE SUPPLIERS

Supplier acknowledges that all UC eProcurement sites are intended to facilitate Users' ability to obtain Goods and/or Services from more than one supplier. Nothing in this Appendix will be construed to prevent UC from entering into similar agreements with any third parties including, without limitation, suppliers that may be in competition with Supplier.

SECTION 8 – WARRANTY DISCLAIMER

UC does not warrant that access to UC eProcurement sites will be uninterrupted or that the results obtained by use of UC eProcurement sites will be error-free.

SECTION 9 – DISPUTES AND CHANGES IN THE SERVICES

(a) UC and Supplier agree to negotiate in good faith to resolve problems, questions and disputes.

(b) Where improvements and clarifications can be made in the business processes related to eProcurement, both parties agree to incorporate such changes as long as they are mutually agreed upon.

SECTION 10 – ADDITIONAL CONTRACTUAL TERMS

In addition to the provisions of Section 4, Section 10 provisions will govern the Catalogs. If the provisions of Sections 4 and 10 conflict, Section 10 will govern.

Type(s) of Catalog(s): At UC's campus discretion, Supplier is allowed to implement a Hosted or Punch-out catalog in the UC eProcurement systems. Supplier will be required to comply with UC Location e-commerce requirements on a location by location basis, which includes the decision to move forward with Punch-out or Hosted. Any deviation from the type(s) specified herein must first be agreed upon by UC's Contract Administrator.

Annual Number of Catalogs: Supplier is allowed to submit no more than 1 catalogs per calendar year, with changes as follows:

- Content Additions, Deletions and Other Non-pricing Edits: Bi-annually

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- Price Changes: Annually

    - Allowable level of price change ($/%) will be in accordance with the terms of this agreement.
    - If a price file includes both content and pricing changes, it will count toward the pricing allocation.

Lead time: Supplier must load the Catalog price file into the e-Procurement system 10 working days prior to the planned go-live date. (Exception – for January 1 updates to enabled catalogs, Supplier must submit the price file no later than 5 weeks prior, as specified in section 4.)

- Number of catalog/price file versions to be supported for this agreement: 1
- Categories allowed within Catalog: all products meeting University of California specifications
- Categories blocked within Catalog: all products that fall below University of California specifications

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT WITH MILLIKEN SERVICES, LLC FOR CARPET REPLACEMENT AT THE CIVIC CENTER LIBRARY IN AN AMOUNT NOT-TO-EXCEED $430,163

The carpet throughout the Civic Center Library is at the end of its useful life. As a result, the City of Livermore ("City") requires services and supplies to replace the carpet at the Civic Center Library.

Livermore Municipal Code section 2.68.370 permits the formal bidding procedure for supplies, equipment, and general services to be dispensed with when purchased through a cooperative purchasing arrangement. Livermore Municipal Code section 2.68.390 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.

Milliken Services, LLC holds a competitively bid cooperative purchasing agreement for flooring products and services, with products and services made available to member agencies of OMNIA Partners. The City is a member of OMNIA Partners, and the underlying purchase at issue was made using a quotation or bid procedure at least as restrictive as the City's.

The proposed agreement with Milliken Services, LLC provides for removal, disposal, and replacement of flooring at the Civic Center Library in an amount not-to-exceed $430,163. The term of the proposed agreement will commence on December 1, 2023, and terminate on June 30, 2024.

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 an agreement with Milliken Services, LLC, attached hereto as Exhibit A, for carpet replacement at the Civic Center Library in an amount not-to-exceed $430,163.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Molly O'Toole
Molly O'Toole
Deputy City Attorney

Exhibit A – Agreement with Milliken Services, LLC

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AGREEMENT FOR SERVICES

THIS AGREEMENT is made and entered into this day of , 2023, by and between the City of Livermore ("City"), a municipal corporation, and Milliken Services, LLC ("Contractor"), a South Carolina limited liability company.

RECITALS

City requires services to remove, dispose of, and replace flooring at the Civic Center Library building.

Contractor warrants it possesses the distinct skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Contractor acknowledges City has relied upon these warranties to retain Contractor.

AGREEMENT

NOW, THEREFORE, City and Contractor hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. Retention as Contractor. City hereby retains Contractor, and Contractor 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. Contractor and its employees are not City officers or employees. Contractor 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. Contractor shall provide services to remove, dispose of, and replace flooring at the Civic Center Library building as more particularly set forth in Exhibit "A" (collectively "the Services").

4. Contractor's Responsibilities. Contractor shall:

(a) Diligently perform the Services in a manner commensurate with industry, professional, and community standards;

(b) Provide the resources necessary to complete the Services in a timely manner;

(c) Obtain a business license from the City of Livermore, and keep it in effect for the term of this Agreement;

(d) Obtain and keep in effect all necessary licenses, permits, qualifications, insurance, and approvals legally and professionally required for Contractor to practice its profession and to provide the Services;

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(e) Comply with all laws in effect that are related to Contractor and the Services;

(f) Coordinate the Services with Jason Calkins, Public Works Supervisor-Facilities ("Project Manager"), or such other person designated as the Project Manager by City;

(g) Be available to the Project Manager, and other parties referred to Contractor by the Project Manager, to answer questions or inquiries related to the Services;

(h) Only invoice City for the Services rendered. Contractor's invoice shall be in writing and describe the Services performed for the payment requested. Contractor shall not submit an invoice to City more frequently than once a calendar month;

(i) 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 Contractor and must include time sheets, work progress reports, and other documentation to adequately explain all the Services invoiced for payment. Contractor 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. Contractor 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, Contractor and City shall coordinate their delivery to City in the most efficient manner possible;

(j) Prepare and submit a written report to the Project Manager, within 3 business-days of the Project Manager's written request, that identifies the Services completed and in progress, the charges incurred to date, and the anticipated cost to complete the remaining Services;

(k) Contractor shall correct, at its own expense, all errors in the Services. Should Contractor fail to make such correction in a timely manner, City may make the correction and charge the cost thereof to Contractor;

(l) If applicable, Contractor shall ensure that all work for compensation is taken in compliance with the requirements of the California Labor Code including but not limited to hours of labor, nondiscrimination, payroll records, apprentices, worker's compensation and prevailing wages, including those requirements outlined in Exhibit D attached hereto. If applicable, Contractor shall comply with all prevailing wage laws, such as sections 1773, 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the California Labor Code and any other applicable wage and hour law, including those requirements outlined in Exhibit D attached hereto. If any violation of prevailing wage law associated with this Agreement is deemed to have occurred by any court or administrative authority, Contractor shall forfeit to the City, as a penalty, the sum of fifty dollars ($50.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the applicable prevailing rates for any work done to accomplish the purposes of this Agreement; and,

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(m) Contractor'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 applicable regulations and guidelines issued pursuant to the ADA.

5. Compensation and Payment.

(a) The total compensation payable by City to Contractor for the Services **SHALL NOT EXCEED** the sum of $430,163.00 ("not-to-exceed amount"). City shall compensate Contractor 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 Contractor'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 Contractor, its agents, and employees to provide the Services.

(b) City shall pay Contractor no later than 30 days after City receives a written invoice from Contractor and verifies the Services were performed for the payment requested.

6. Term. The term of this Agreement commences on December 1, 2023, and terminates upon the completion of the Services or June 30, 2024, whichever occurs first.

7. Termination by City. City may terminate any portion or all of the Services by giving Contractor at least 30 calendar-days written notice. Upon receipt of a termination notice, Contractor 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 Contractor in accordance with Section 5.

8. Ownership of Documents. All drawings, designs, data, photographs, reports and other items prepared or obtained by Contractor in the performance of the Services are City's property and Contractor shall deliver them to City upon demand.

9. Copyright and Right of Use. All items created by Contractor for City under this Agreement are works made for hire, and Contractor shall give City the copyright and all intellectual property rights to all items developed, prepared, and delivered as part of the Services. Contractor 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 Contractor to City and Contractor 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. Contractor shall not disclose any confidential or proprietary information received from City to anyone except Contractor's employees who require access to the information to perform the Services. This obligation shall survive

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termination and remain in full force and effect until the information, and any copies thereof, are destroyed or returned to City.

11. Defense, Indemnity, and Hold Harmless. To the fullest extent permitted by law, Contractor shall hold harmless, indemnify, and defend with counsel selected by the City or otherwise acceptable to the City, the City and its elected and appointed officials, officers, directors, employees, agents and designated volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's failure to comply with any of its obligations contained in this Agreement, except for such Liability caused by the sole active negligence or willful misconduct of City. Contractor's obligations to hold harmless, indemnify, and defend shall not be excused because of Contractor's inability to evaluate Liability. These obligations are independent of, and shall not in any way be limited by, the minimum insurance obligations contained in this Agreement. These obligations shall survive the completion or termination of this Agreement. Contractor must respond within 30 days to the tender of any claim for defense and indemnity by the City.

(a) Modification for Construction Contracts. To the extent this Agreement is a "construction contract" covered by California Civil Code section 2782, then Contractor's duty to indemnify shall not apply in a manner prohibited by California Civil Code section 2782.

(b) Modification for Design Professional Services. To the extent this Agreement is for "design professional services" defined in California Civil Code section 2782.8, then Contractor's duties to defend and indemnify shall only apply to the extent provided for in California Civil Code section 2782.8(a), unless section 2782.8(a) is not applicable for one of the reasons set forth in 2782.8(e).

12. Insurance. Contractor 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, Contractor 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. Contractor'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 Contractor for, the Services does not release Contractor from its responsibility for the accuracy, completeness, or competency of the Services, nor do the actions constitute an assumption of Contractor's responsibility or liability by City for any defect or error in the Services.

15. Conflict of Interest. Contractor represents that no City employee or official has a financial interest in Contractor. Contractor shall not offer, encourage, or accept any financial interest in any part of Contractor'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

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of the Services are paid by reimbursement from an agreement between City and a private party, Contractor 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. Contractor 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 Contractors' financial interest. While it is Contractor's sole responsibility to evaluate its conflicts of interest, the Contractor 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 Contractors to provide, services that are the same or similar to the Services described in this Agreement.

18. No Assignment. Contractor 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 Contractor constitutes an assignment.

19. 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 Contractor must present a written claim to City in accordance with Chapter 3.42 of the Livermore Municipal Code.

20. 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.

21. 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.

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: Jason Calkins
City of Livermore
3500 Robertson Park Road
Livermore, California 94550

TO CONTRACTOR: Attention: Tammy Drake
Milliken Services, LLC
201 W. Lukken Industrial Drive
LaGrange, GA 30240

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. Survival. The terms, conditions, and obligations in Sections 8, 9, 10, and 11 shall survive the completion or termination of this Agreement.

26. Electronic Signatures. By signing this document, you are agreeing that you have reviewed this disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

27. 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. The facsimile, email, or other electronically delivered signatures of the Parties shall be deemed to constitute original signatures, and facsimile or electronic copies hereof shall be deemed to constitute duplicate originals and shall be valid and effective for all purposes.

****

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.

CONTRACTOR: **Dated:**

DocuSigned by:
Lee Blair
55161E73152A415...

11/1/2023 | 2:41 PM EDT

By: Lee Blair
Title: Vice President

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Molly O'Toole
A006EFED3B6E4A5...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
A3F7D34BB6A748A...

Risk Manager/Analyst

Attachments:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements
Exhibit C - DIR Compliance Certification
Exhibit D - Prevailing Wage and Labor Code Requirements

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Exhibit A

Scope of Work

Contractor shall provide all necessary labor, materials, equipment, and supplies to perform the following duties in connection with the replacement of existing flooring at the City of Livermore Civic Center Library:

1. Order carpet, flooring, and materials;
2. Move furniture and prepare Civic Center Library for installation of new flooring;
3. Remove and dispose of existing flooring in the Civic Center Library;
4. Install new flooring and carpeting; and
5. Move furniture back to its original locations in the Civic Center Library and restore the Library to a condition fit for operation, unless otherwise directed by City.

Terms of Work:

1. Work location is the City of Livermore Civic Center Library at 1188 S. Livermore Ave.
2. All work shall occur with the time periods of 7:00AM through 3:30PM Monday through Friday, unless explicitly authorized by Project Manager.
3. All employees of Contractor shall wear uniforms or badges clearly identifying them as employees of Contractor at all times while on City premises for the purpose of completing work.
4. City reserves the right to halt work at any time for noncompliance with this agreement, or unsafe work conditions or practices.
5. Contractor shall keep worksites reasonably clear of debris and protect the safety of the public and City employees at all times. Contractor shall promptly remove all materials and spoils from each job site upon completion of the work.
6. All debris or spoils generated by the work of Contractor shall be properly disposed of by Contractor.
7. Contractor shall follow all applicable safety rules and regulations and supply any necessary traffic control measures.
8. Contractor shall warranty their work for a minimum of ninety (90) days upon completion against defects in workmanship and/or materials. Any repair costs incurred within this ninety-day period shall be at the sole expense of the Contractor.

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Compensation:

1. City shall compensate Contractor for material and services according to the following unit prices and task amounts.

Item	Qty	Unit of Measure	Unit Price	Total
CPT 1 - Low Country, Salt Marsh SLM259 Folly 25CMx1M	3,989.856	SY	$ 25.51	$ 101,781.23
CPT 2 - Moraine Navigator 133-6 Measure 50CM	889.226	SY	$ 29.49	$ 26,223.27
CPT 3 - Moraine NAV133-6 Measure with Symbols 50CM				
DR# 01392665 for the Blue Symbols	60.099	SY	$ 29.49	$ 1,772.32
DR# 01392771 for the Blue Zones	60.099	SY	$ 29.49	$ 1,772.32
DR# 01392768 for the Yellow Symbols	60.099	SY	$ 29.49	$ 1,772.32
DR# 01392769 for the Yellow Zones	60.099	SY	$ 29.49	$ 1,772.32
DR# 01392766 for the Red Symbols	60.099	SY	$ 29.49	$ 1,772.32
DR# 01392770 for the Red Zones	60.099	SY	$ 29.49	$ 1,772.32
Standard Carpet Tile Adhesive (order by pail)	39.000	4-gal. pail	$ 147.22	$ 5,741.58
Install Carpet (renovation) Sq. Yd.	5,000.000	SY	$ 9.73	$ 48,650.00
Take up / Removal Existing Carpet (Sq. Yd.)	5,000.000	SY	$ 3.79	$ 18,950.00
Floor Prep	45,000.000	SF	$ 1.08	$ 48,600.00
Furniture Move (heavy moving) Sq. Yd.	5,000.000	SY	$ 13.00	$ 65,000.00
Off-Hours Labor - Nights, Weekends, Holidays	5,000.000	SY	$ 5.41	$ 27,050.00
Material Disposal	5,000.000	SY	$ 1.35	$ 6,750.00
Material Handling / Staging	45,000.000	SF	$ 0.71	$ 31,950.00
Cove Base: Furnish & Install 4"	1,000.000	LF	$ 2.97	$ 2,970.00
Dumpster - 30 Yard	4.000	Each	$ 1,081.50	$ 4,326.00
CA Carpet Stewardship Assessment Carpet Tile	5,239.676	SY	$ 0.73	$ 3,824.96
Project Management Fee	1.000	Each	$ 27,711.97	$ 27,711.97
TOTAL				**$ 430,162.93**

2. City shall not grant compensation until the project has been completed.

PREVAILING WAGE AND LABOR CODE COMPLIANCE

This Agreement is subject to all applicable Labor Code requirements, including those requirements outlined in Exhibit D attached to this Agreement.

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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."

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.

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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.

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EXHIBIT C

CITY OF LIVERMORE REQUEST FOR PROPOSALS

DEPARTMENT OF INDUSTRIAL RELATIONS COMPLIANCE CERTIFICATION
Senate Bill 854

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

In accordance with California Labor Code as amended through Senate Bill SB 854, prior to commencement of the Contract, all Contractors are required to register, and maintain active registration throughout the duration of the contract with the California Department of Industrial Relations (DIR). For information regarding registration, please go to: http://www.dir.ca.gov/

I, the Bidder, certify that:

> "I am aware of the provisions of Senate Bill SB 854 and subsequent DIR regulations, which require Contractors/Vendors to comply with all labor compliance requirements including but not limited to prevailing wage requirements, Labor Code sections 1725.5, 1771.1(a), 1774-1776, 1777.5, 1813, 1815, Public Works Contractor Registration Program, Electronic Certified Payroll Records to Labor Commissioner, and other requirements described in the DIR website. I will comply with such provisions before commencing the performance of the work of this contract, and maintain compliance throughout the completion of said contract."

Signature	10/24/2023 Date
Jason Richardson Print Name	Milliken Services, LLC Business Name
Director of Operations Title	1001614 CSLB License Number
	PW-LR-1000561459 DIR Registration Number

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Exhibit D
Prevailing Wage and Labor Code Requirements

This Agreement is subject to all applicable Labor Code requirements, which include, without limitation, the requirements listed below.

1. DIR Registration. City will not enter into this Agreement without proof that the Contractor is registered with the California Department of Industrial Relations ("DIR") to perform public work pursuant to Labor Code section 1725.5, subject to limited legal exceptions. A contract entered into in violation of Labor Code section 1771.1(a) shall be subject to cancellation as outlined in Labor Code section 1771.1(f).

2. DIR Monitoring. The Services are subject to compliance monitoring and enforcement by the Department of Industrial Relations.

3. Prevailing Wages. The Services are subject to all applicable prevailing wage requirements. Contractor shall pay to all workers employed to perform the Services not less than the applicable general prevailing rate of per diem wages for work of a similar character in the locality in which the Services are to be performed for each craft, classification, or type of worker needed to perform the Services, including employer payments for health and welfare, pension, vacation, travel, subsistence, apprenticeship and similar purposes as outlined in Labor Code section 1773.1, and shall pay to all workers employed to perform the Services not less than the general prevailing rate of per diem wages of holiday and overtime work as provided in Chapter 1 of Division 2, Part 7 of the Labor Code. Copies of these prevailing rates of per diem wages are available online at https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm. Each worker performing Services under this Agreement that is a Public Work pursuant to Labor Code section 1720, including, without limitation, all cleanup work at the jobsite, must be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. Contractor must post a copy of the applicable prevailing rates of per diem wages at any worksite.

4. Copies of Prevailing Wages. Copies of the prevailing rate of per diem wages applicable to the Services required by this Agreement are on file at the City of Livermore, Livermore City Hall, 1052 S. Livermore Ave., Livermore, CA 94552 in the custody of City's Purchasing Specialist, which City shall make available to any interested party on request. City shall also cause a copy of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages to be posted at each job site.

5. Penalties Under Labor Code Section 1775. Contractor will forfeit to City, as a penalty, up to $200.00 for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate(s). The amount of this penalty shall be determined by the Labor Commissioner based on the considerations outlined in Labor Code section 1775. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

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6. Federal Requirements. If this Agreement is subject to Federal prevailing wage requirements in addition to California prevailing wage requirements, Contractor is required to pay the higher of the current applicable prevailing wage rates under federal law, available online at https://www.dol.gov/agencies/whd/government-contracts/construction, or under California law, available online at https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm.

7. Eight Hour Day and Penalties. Under Labor Code section 1810, eight hours of labor constitutes a legal day's work under this Agreement. Under Labor Code section 1813, Contractor will forfeit to City as a penalty, the sum of $25.00 for each worker employed in the execution of this Agreement by Contractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 of Division 2, Part 7, Chapter 1 of the Labor Code, unless the workers are paid overtime under Labor Code section 1815 for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

8. Apprentices. Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code section 1777.5, which is fully incorporated herein by reference.

9. Notices. Under Labor Code section 1771.4, Contractor is required to post all job site notices prescribed by law or regulation.

10. Records.

(A) Contractor shall furnish accurate records specified in Labor Code section 1776 directly to the Labor Commissioner, in the following manner: (i) at least monthly or more frequently if specified in this Agreement; and (ii) in an electronic format, in the manner prescribed by the Labor Commissioner, on the department's internet website. Labor Code section 1776 requires Contractor to keep accurate payroll records with the following information: 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 in connection with the Services performed pursuant to this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury according to the laws of the State of California, stating both of the following: (i) the information contained in the payroll record is true and correct; and (ii) Contractor has complied with the requirements of Labor Code sections 1771, 1811, and 1815 for any work performed by its employees pursuant to this Agreement.

(B) Contractor shall also comply with the requirement of Labor Code section 1812, which requires every contractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by Contractor in connection with the public work. The record shall be kept open

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at all reasonable hours to the inspection of the awarding body and to the Division of Labor Standards Enforcement.

11. Certified Record. A certified copy of payroll records enumerated under Labor Code section 1776(a) shall be made available for inspection or furnished on request to: (a) the employee or his or her authorized representative; (b) to City; and/or (3) to the Division of Labor Standards Enforcement of the Department of Industrial Relations. Contractor must make the records available within ten days of a written notice requesting the records. The records shall also be made available for inspection or furnished on request to the Division of Apprenticeship Standards of the Department of Industrial Relations and as further provided by the Labor Code. Contractor is solely responsible for redacting employee personal information, e.g., name, address, and social security number, before disclosing the certified payroll record, as specified in Labor Code section 1776(e).

12. Enforcement. Upon receipt of a written notice requesting the records enumerated in Labor Code section 1776(a), Contractor has ten days in which to comply with requirements of Section 1776. If Contractor fails to do so within the ten-day period, Contractor will forfeit a penalty of $100.00 per each calendar day, or portion thereof, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

13. Workers' Compensation Certification. Under Labor Code section 1861, by signing this Agreement, Contractor certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

14. Discrimination. Contractor shall not discriminate in the employment of persons on any basis articulated by Labor Code section 1735.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.3**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Brandon Cardwell, Innovation and Economic Development Director

SUBJECT: Resolution approving the application and authorizing the execution of a Project and Program Grant Agreement with Livermore Art Association for the Spring Arts Program, consistent with the City's Public Art Policy in an amount not-to-exceed $5,800.

RECOMMENDED ACTION

The Commission for the Arts and staff recommend the City Council adopt a resolution approving the application and authorizing the execution of the Project and Program Grant Agreement with Livermore Art Association (LAA) in the amount of $5,800 for the LAA Spring Arts Program.

SUMMARY

The Commission for the Arts administers the Project and Program Grant Program, including reviewing funding applications twice per year in March and September and providing funding recommendations to the City Council for final approval.

In September 2023, a total of three applications were received for Project and Program funds. The Commission for the Arts and staff recommend the City Council adopt a resolution approving the execution of the Project and Program Grant Agreement with Livermore Art Association.

DISCUSSION

In 2004, the City Council created the Public Art Fund for the purpose of funding public art and cultural programming. In 2008, the City Council created the Project and Program Grant Program to provide funding from the Public Art Fund for local organizations and artists providing cultural enrichment experiences in Livermore.

The Commission for the Arts administers the Project and Program Grant Program, including reviewing funding applications twice a year in March and September and providing funding recommendations to the City Council for final approval. Opportunities for funding were posted on the City website and social media.

On September 1, 2023, staff received a total of three applications which were reviewed by a subcommittee of the Commission for the Arts. The subcommittee reviewed the applications and presented its funding recommendations to the full Commission at its regular meeting on September 26, 2023. The Commission for the Arts selected Las Positas College Foundation and Livermore Art Association for funding. The two projects selected meet the evaluation criteria and include expenses that are eligible for funding. The remaining application did not meet all the evaluation criteria. On November 8, 2023, staff was informed by Kenneth Cooper, executive director of Las Positas College Foundation, that they have decided to withdraw their application.

The Commission for the Arts and staff recommend the City Council adopt a resolution approving the execution of the Project and Program Grant Agreement with Livermore Art Association in the amount of $5,800.

FISCAL AND ADMINISTRATIVE IMPACTS

The Project and Program Grants are funded with Public Art Fee funds (F608). Funds have been included in the FY 2023-24 budget. No further appropriation is needed at this time.

COMMUNITY PILLAR
4: Inclusive and Inviting Spaces

GOAL
2: Implement the newly adopted Creative Livermore cultural arts vision

ATTACHMENTS

1. Resolution
2. Exhibit A - Agreement

Prepared by: Theresa De La Vega
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 PUBLIC ART FUND PROJECT AND PROGRAM GRANT AGREEMENT WITH LIVERMORE ART ASSOCIATION, IN THE AMOUNT OF $5,800

The City Council created the Public Art Fund for the purpose of funding public and cultural programming consistent with the public art policy administered by the Commission for the Arts. The Project and Program Grant program was created by the City Council for use of the Public Art Fund for the purpose of encouraging programs for the cultural enrichment of the residents of, and visitors to, Livermore.

The Commission for the Arts reviews applications for the Project and Program Grant program twice per year, in March and September. The Commission for the Arts received a total of three applications for September 2023. Following a review of those three applications, the Commission for the Arts recommended funding two of the three Project and Program applications, one from the Livermore Art Association and another, which was subsequently withdrawn by the applicant.

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 the Project and Program Grant Agreement with Livermore Art Association, in the amount of $5,800 for Livermore Art Association's Spring Arts Program, attached hereto as Exhibit A.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Katherine Mirassou
Katherine Mirassou
Deputy City Attorney

Exhibit A – Livermore Arts Association Agreement

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EXHIBIT A

AGREEMENT BETWEEN CITY OF LIVERMORE AND LIVERMORE ART ASSOCIATION FOR FISCAL YEAR 2023-24 PROJECT AND PROGRAM GRANT AGREEMENT

This AGREEMENT, entered into this ____ day of _____, 2023, between the City of Livermore, a municipal corporation ("City"), and Livermore Art Association, a California non-profit Corporation ("Grantee").

RECITALS

A. City created Project and Program Grants for the purpose of encouraging programs for the cultural enrichment in the City of Livermore.

B. The primary goal of the Project and Program Grant Program is to serve one or more of the main strands found in the Cultural Arts Master Plan, artsALIVE!, adopted by City Council Resolution number 2007-109 on June 11, 2007.

C. The Commission for the Arts reviews all Project and Program Grant applications and provides City Council with recommendations for funding. Funding is not authorized until City Council approves the Commission for the Arts' funding recommendations evidenced by City's signature on this agreement.

D. Grantee has applied to City for funding for a project or program to support the Livermore Arts Association's Spring Arts Program ("Project").

E. City wishes to engage Grantee to assist City in utilizing Public Art Fee fund money to provide art projects and programs to Livermore residents.

F. City and Grantee understand that the Project and Program Grant shall be administered consistent with the procedures, standards, regulations, and guidelines for Project and Program Grants, including the 2008 Art in Public Places Program Policy and Procedures Manual and the Cultural Arts Master Plan.

AGREEMENT

NOW THEREFORE, City and Grantee hereby agree that the aforementioned recitals are true and correct, and in recognition of the mutual consideration provided herein, further agree as follows:

I. SCOPE OF SERVICE

A. <u>Activities</u>

Grantee is responsible for administering the Project and Program Grant in a manner satisfactory to City, and consistent with the standards, terms and conditions imposed by the 2008 Art in Public Places Program Policy and Procedures Manual,

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Cultural Arts Master Plan, and herein. The Project will include the following activities eligible under the Project and Program Grant Program: Livermore Art Association's Spring Arts Program scheduled to begin in April 2024 and will conclude June 2024.

1. *Project and Program Delivery*: Grantee agrees to the goals and performance standards as defined below and outlined in the Grantee's Project and Program Grant application attached as Exhibit "A".

2. *Service Objective:* The Spring Arts Program is comprised of three art shows: the Spring Art Show, the premier showcase event, The Essential Figure, a figurative artshow working in any medium, both 2D and 3D, and Paint Livermore encouraging artists to come to Livermore for plein air painting. Funds will support the rental of the venue and marketing for the program ("Activities").

3. *General Administration:* The Funds for the Activities are to be administered under the direction of the Grantee's Executive Director and shall comply with the procedures, standards, regulations and guidelines for Project and Program Grants, including the 2008 Art in Public Places Program Policy and Procedures Manual and the Cultural Arts Master Plan.

B. Budget

City will grant, and Grantee will use, funds in the amount of $5,800 ("Funds") to perform the Activities consistent with the terms and conditions of this Agreement, the 2008 Art in Public Places Program Policy and Procedures Manual, and the Cultural Arts Master Plan.

C. Performance Monitoring

City will monitor Grantee's performance against the project or program description outlined in the Grantee's Project and Program Grant application attached as Exhibit "A". Substandard performance as determined by City will constitute non-compliance with this Agreement.

II. TIME OF PERFORMANCE

Grantee shall complete its Activities within one year of the date of execution of this Agreement. If Grantee requires an extension of time for full performance, it may request an extension from the Commission for the Arts. The decision of the Commission for the Arts shall be final.

III. PAYMENT

It is expressly agreed and understood that the total amount of the Funds available from City to Grantee for the Activities under this Agreement shall not exceed $5,800.

The City shall disburse the Project & Program Grant in three installments: 30 percent in advance, 40 percent once material progress can be shown and evidence of the matching grant

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cash requirement has been submitted, and the final 30 percent after a satisfactory Final Report has been filed. The Project & Program subcommittee of the Commission for the Arts has sole discretion to decide whether each of these milestones has been reached.

IV. NOTICES

Any notice required or permitted under the terms of this Agreement shall be effective upon receipt in writing either by personal service upon the authorized agent for the party, or by mailing the notice via U.S. Mail to the party as follows:

City: City of Livermore
Attn: Theresa De La Vega, Commission for the Arts Staff Liaison
1052 S. Livermore Avenue
Livermore, California 94550

Grantee: Livermore Art Association
Attn: Christine Watters, President
PO Box 216
Livermore CA 94551

V. GENERAL CONDITIONS

A. General Compliance

Grantee agrees to comply with the requirements of state and local laws and regulations governing the Funds available under this Agreement. Grantee also agrees to comply with all additional regulations and policies issued pursuant to these regulations. Grantee further agrees to utilize the Funds available under this Agreement to supplement, rather than supplant, funds otherwise available. Furthermore, with respect to the performance of Activities under this Agreement, Grantee agrees to comply with all federal, state, and local laws, statutes, rules, and regulations pertaining to the performance of those Activities.

B. Independent Contractor

Nothing contained in this Agreement is intended to, nor shall be construed in any manner to, create or establish the relationship of employer/employee between the parties. Grantee shall at all times remain an Independent Contractor with respect to the services to be performed under this Agreement. City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance, and Workers' Compensation Insurance as Grantee is an Independent Contractor.

C. Hold Harmless

Grantee agrees to defend, indemnify, and hold City, its elected officials, officers, directors, employees, agents, and designated volunteers harmless from and against any and all loss, liability, damage, including reasonable attorney’s and expert fees and/or court costs, arising out of the performance of the Activities under this Agreement, except for the gross negligence and

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willful misconduct of City, its elected officials, officers, directors, employees, agents, and designated volunteers.

D. Insurance

Grantee shall procure and maintain insurance for the duration of the contract 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 Project. Upon reasonable written notice, Grantee shall comply with any changes in the amounts and terms of insurance as may be required from time-to-time by the City of Livermore Risk Manager.

E. City Recognition

Grantee shall acknowledge City's financial support in all appropriate materials and media. The acknowledgment shall read, "Supported in part by a grant from the City of Livermore" or similar language, unless the City of Livermore is a part of a list of supporters. In the latter case, the acknowledgement may say only "City of Livermore." Grantee shall display the City of Livermore's logo whenever other sponsor logos are displayed, and in accordance with the City of Livermore's logo use guidelines, attached as Exhibit C.

F. Amendments

City or Grantee may amend this Agreement at any time provided such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations. Such amendments shall not invalidate this Agreement, nor relieve or release City or Grantee from its obligations under this Agreement.

City may, in its discretion, amend this Agreement to conform with state or local laws, regulations, guidelines, or policies related to the use of the Funds for the Activities. However, if such amendments result in a change in the funding, the scope of services, or the Activities, such modifications shall be incorporated only by written amendment signed by both City and Grantee.

G. Suspension, Termination, Return of Funds

1. *Termination for Cause.* City may suspend or terminate this Agreement if Grantee materially fails to comply with any term or condition of this Agreement, including but not limited to, the following:

a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statues, regulations, policies, or directives as may become applicable at any time;
b. Failure, for any reason, of Grantee to fulfill in a timely and proper manner its obligation under this Agreement;
c. Ineffective or improper use of Funds provided under this Agreement; or
d. Submission by Grantee to City reports that are incorrect or incomplete in any material respect.

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City shall give Grantee written notice of any failure to comply with the Agreement. If Grantee does not remedy the deficiency or non-compliance within fifteen (15) calendar days after the date the notice is sent, City may exercise any of the remedies available under law and equity, including but not limited to the termination of this Agreement.

Pending correction of any compliance, City shall withhold fifteen percent (15%) of the remaining Agreement Funds until Grantee corrects the deficiency, Grantee is otherwise found to be in compliance by City, or Grantee is otherwise adjudicated to be in compliance with the Agreement.

2. *Termination for Convenience:* This Agreement may also be terminated for convenience by either City or Grantee, in whole or in part, by giving notice of such termination, the effective date of the termination, and in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, if City determines that the remaining portion of the Funds or Activities will not accomplish the purpose for which the award was made, City may terminate the Agreement in its entirety.

Written notice of termination must be provided at least thirty (30) calendar days before the effective date of such termination.

3. *Effect of Termination:* In the event of termination, all finished or unfinished documents, data, studies, photographs, reports, or other materials prepared by Grantee under this Agreement shall, at City's option, become the property of City, and Grantee shall only be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination. Any remaining Funds shall be returned to the City's Public Art Fund for reallocation.

Termination for failure to comply with any term or condition of this Agreement may result in Grantee becoming ineligible to participate in future Commission for the Arts grant programs.

Termination for any reason shall immediately suspend the Funds available under this Agreement, terminate any claim Grantee has to such Funds, and result in Funds being immediately refunded to City for use and reallocation by City.

VI. ADMINISTRATIVE REQUIREMENTS

A. Documentation and Recordkeeping

1. *Records to be Maintained*: Grantee shall maintain the following records including, but not limited to:

   a. Records providing a full description of each activity undertaken and the date(s) on which the activity occurred;

   b. Records demonstrating that each activity undertaken meets one of the objectives of the Program & Program Grant; and

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c. Quarterly and annual revenue and expense reports for Activities funded by this Agreement.

2. *Retention*: Grantee shall retain all records pertinent to expenditures incurred in the performance of the Activities under this Agreement for a period of two (2) years after the termination of all activities funded under this Agreement.

3. *Objectives*: Grantee agrees to maintain documentation that demonstrates that the Activities meet one or more of the objectives of the strands identified in the Cultural Arts Master Plan.

4. *Audits and Inspections*: All Grantee records with respect to any matters covered by this Agreement shall be made available to City at any time during normal business hours, as often as City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

Any deficiencies noted in audit reports must be corrected by Grantee within thirty (30) calendar days after receipt of notice of deficiency by Grantee. Failure of Grantee to comply with the above audit requirements will constitute a violation of this Agreement and constitute cause for termination pursuant to Paragraph V.

B. Reporting and Payment Procedures

1. *Payment Procedures*: City will pay to Grantee Funds available under this Agreement based upon information submitted by Grantee, and consistent with the 2008 Art in Public Places Program Policy and Procedures Manual. City reserves the right to liquidate Funds available under this Agreement for costs incurred by City on behalf of Grantee.

2. *Progress Reports*: Grantee shall submit a Material Progress Report to the Commission for the Arts when it feels the Project has made material progress. Grantee shall also submit a Final Report when its Project Activities are complete. These reports are prerequisites to receiving the second and third grant installment payments, in accordance with Section III. The Grantee shall determine the form and content of the Progress Reports.

3. *Quarterly Revenue and Expense Reports*: Grantee shall submit Quarterly Revenue and Expense Reports for grant activities to the Community Development Director.

VII. PERSONNEL AND PARTICIPANT CONDITIONS

A. Assignability

Grantee shall not assign or transfer any interest in this Agreement without the prior written consent of City. However, claims for money due or to become due to Grantee from City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to Grantee.

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B. Conflict of Interest

Grantee agrees to abide by the provisions of the California Political Reform Act (Gov. Code §§ 81000 *et seq.*) and related regulations (2 Cal. Code Regs. §§ 18109 *et seq.*) with respect to conflicts of interest, and covenants that it presently has no financial interest, and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the Activities under this Agreement.

Grantee further covenants that in the performance of this Agreement, no persons who exercise or have exercised any functions or responsibilities with respect to the Activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such Activities, have a financial interest in any contract, subcontract or agreement with respect to the Activities or with respect to the proceeds from the Activities, either for themselves or those with whom they have a business or immediate family ties, during their tenure or for a period of one (1) year thereafter.

These conflict of interest provisions apply to any person who is an employee, agent, Grantee, officer, or elected or appointed official of Grantee.

C. Subcontracts

1. *Approvals*: Grantee shall not enter into any subcontracts with an agency or individual in the performance of this Agreement without the prior written consent of City.

2. *Monitoring*: Grantee will monitor all subcontracted services to assure Agreement compliance. Results of monitoring efforts must be summarized in written reports, and supported with documented evidence, of follow-up actions taken to correct areas of noncompliance.

3. *Content*: Grantee shall cause all of the provisions of this Agreement in its entirety to be included in, and made a part of, any subcontract executed in the performance of this Agreement.

D. Copyright

If this Agreement results in any copyrightable material, City reserves the right to royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, the work for government purposes.

E. Religious Organization

Grantee agrees that funds provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization.

VIII. **SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IX. **WAIVER**

City's failure to act with respect to a breach by Grantee does not waive its right to act with respect to subsequent or similar breaches. The failure of City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

X. **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between City and Grantee for the use of Funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between City and Grantee with respect to this Agreement.

XI. **BINDING EFFECT**

All the terms, covenants, and conditions of this Agreement shall inure to the benefits of and be binding upon successors and assigns of the parties to this Agreement.

XII. **COUNTERPARTS**

This Agreement may be executed in counterparts 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.

****

SIGNATURES AND ATTACHMENT LIST ON NEXT PAGE

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IN WITNESS THEREOF, the Parties have executed this Agreement as of the date first written above.

Livermore Art Association
a California non-profit corporation
"Grantee"

DocuSigned by:
By: Christine Watters _____ Dated: 10/23/2023 | 3:34 PM PDT
2D1DBAE7A7324A8...
Christine Watters
President

CITY OF LIVERMORE
a Municipal Corporation
"City"

By: _____ Dated: _____
Brandon Cardwell
Innovation and Economic Development Director

APPROVED AS TO FORM:

DocuSigned by: DS
Katherine Mirassou JS
D48B6A0C4F27411...
DEPUTY/ASSISTANT/CITY ATTORNEY

Attachments:

Exhibit A	Application for Project and Program Grant from the City of Livermore
Exhibit B	Insurance Requirements
Exhibit C	Logo Use Guidelines

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Livermore Art Association
P O Box 216,
Livermore CA 94551-0216

August 31, 2023

The City of Livermore
Office of Innovation & Economic Development
Staff Liaison for the Commission for the Arts
1052 S. Livermore Avenue,
Livermore, CA 94550

Re: Livermore Commission for the Arts Project/Program Grant Application

Thank you for expanding the City Arts Project Grant to include program-level applications. We are asking for a $5800 grant for Livermore Art Association's *Spring Arts Program*.

This Grant proposal is for LAA's *Spring Arts Program*, which is comprised of our three spring shows, each of which contribute significantly to the visual arts in Livermore. The Spring Art Show is our biggest show and has existed for 65 years. The Essential Figure Show is a very high-quality figurative show showcasing artists in many media, has existed for 15 years. Paint Livermore, started 5 years ago, is a fun gathering of artists from all over the Bay Area and beyond in addition to talented local artists. Paint Livermore artists are seen painting all over Livermore Valley during this event.

Our shows support local artists and Livermore businesses and organizations. The venues are the Bothwell Arts Center and Carnegie Park. We are traditionally linked to the City of Livermore with the City contributing judges, awards, enhancing the program. We also participate in the city kiosk and banner programs for advertising. We pay to advertise in the local paper, The Independent.

The *Spring Arts Program* is open to all visual artists and the public is invited to attend at no cost. Each year we support the Veterans Hospital Art program, students, and local artists.

Kindly,

Christine Watters
President, Livermore Art Association,
Part of Livermore Valley's art community since 1957.

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Certification

If applicant is an organization:

I certify that the by-laws of this organization or a resolution of its governing body authorizes me to enter into legal agreements for the organization and to submit this application. To the best of my knowledge and belief, this organization meets the appropriate eligibility requirements. I have reviewed the information in this application and all attachments, and I certify that they are true and correct.

C. Watters — August 31, 2023

Authorized Officer's Signature — Date

CHRISTINE WATERS — PRESIDENT

Print Name of Officer signing this form — Title of Officer signing this form

---

- or -

If applicant is an individual artist:

N/A.

To the best of my knowledge and belief, I meet the appropriate eligibility requirements. I have reviewed the information in this application and all attachments, and I certify that they are true and correct.

Artists Signature — Date

Print name of Artist signing this form

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Applicant Name: Livermore Art Association

APPLICATION CHECKLIST - This Checklist is required and must be submitted as part of the completed Application. All Project & Program Grant applicants are required to submit the following:

One original set of the Application, collated in the following order:

- ☑ 1. Application Checklist (this page).
- ☑ 2. Start date: Do(es) the event(s) related to this project begin at least two (2) months after the application deadline?
- ☑ 3. Organizational Summary, signed by the organization's executive director, managing director, president, board chair, or other authorized officer of the organization, or by the applying artist.
- ☑ 4. If you are an organization, submit a list of current officers and Board members with their term of office.
- ☑ 5. If you are a 501(c)(3), submit a copy of your 501(c)(3) determination letter from IRS.
- ☑ 6. Application Form, beginning on page 1, continuing through the Project Budget Summary.
- ☑ 7. Notes to the Project Budget, and a detailed list of In-Kind contributions.
- ☑ 8. List of key project individuals, including principal artists and project managers, with a very brief job description (e.g., a self-explanatory job title) for each.
- ☑ 9. Resumes/biographies of key project individuals, generally one page each.
- ☑ 10. Up to four items in any combination of brochures, catalogues, performance programs, or similar organizational publications/materials; if available.
- ☑ 11. Up to four recent press reviews or articles, or similar independently generated published materials, if available. (*Note*: Calendar listings are not suitable.)
- ☐ 12. NOTE: During the review process you may be requested to submit samples of other work you have produced (work samples). See Chapter 3 – Grants for more information about work samples.

Standards for Preparing Applications

Please read the following carefully. Applicants are responsible for completing and submitting a full application package with all required attachments by the deadline. Incomplete applications will not be accepted for Commission evaluation.

1. Applicants must not modify the format of the application form or exceed the maximum length of any section of the form, except where otherwise noted.
2. All required attachments (except pre-printed ones) must be typed or computer-prepared in a type size that is no smaller than 12 pt. Times/Times New Roman, or 10 pt. Arial/Helvetica.
3. Complete all pages of the application form and all required attachments. (Use "N.A." if a section does not apply to your organization.) Provide information that is current as of the application deadline. Budget pages and budget notes must be complete.

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Checklist #2. Start Dates:

Does the event (s) related to this project begin at least two (2) months after the application deadline?

Yes. We meet the criteria.

The *Spring Art Program* has three major dates. Exact dates may vary slightly depending on venue availability.

- The Spring Art Show is held the first week of April 2024.
- The Essential Figure Show is held the last week of April 2024
- The Paint Livermore Show is held in the first week of June 2024

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Checklist #3. Organizational Summary.

Signed by the organization's Executive Director, Managing Director, President, Board Chair, or other authorized officer of the organization.

The Livermore Art Association is a non-profit organization formed on May 4, 1957. It currently has 185 members. It is deeply concerned with promoting an interest and understanding of art and crafts by the public. It encourages the growth and development of the creative talents of its members. Our shows are open to all. The involvement of our artists and crafts members provides stimulation and growth of the arts and artists in Livermore and our shows also attract visitors to Livermore.

Christine Watters
President, Livermore Art Association

Date: Aug 31, 2023

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CHECKLIST # 4 List of Current Officers

Officers:

All are one-year terms.

- President & LCAC Liaison - Christine Watters
- Vice President – Open
- Secretary – Open
- Treasurer – Joyce Moulden

Board Chairs:

All are one-year terms.

- Liaison of Shows – Clark Streeter
- Membership & Hospitality - Georgia Jacobs
- Publicity - Craig Varden
- Property - Richard Finn
- Programs – Chandana Srinath
- Workshops – Jessical Copeman
- Gallery Director - Peggy Kervin

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CHECKLIST #5. 501(c)(3) Determination Letter

DocuSign Envelope ID: 68D5B853-EAD3-4D9A-8F24-099AA2F281AA

IRS Department of the Treasury
Internal Revenue Service

CINCINNATI OH 45999-0038

In reply refer to: 0248188030
May 27, 2022 LTR 4168C 0
[redacted] 000000 00
00011597
BODC: TE

LIVERMORE ART ASSOCIATION
PO BOX 216
LIVERMORE CA 94551

031550

[redacted]
Form 990 required: Yes

Dear Taxpayer:

We're responding to your request dated May 18, 2022, about your tax-exempt status.

We issued you a determination letter in September 1972, recognizing you as tax-exempt under Internal Revenue Code (IRC) Section 501(c)(3).

We also show you're not a private foundation as defined under IRC Section 509(a) because you're described in IRC Section 509(a)(2).

Donors can deduct contributions they make to you as provided in IRC Section 170. You're also qualified to receive tax deductible bequests, legacies, devises, transfers, or gifts under IRC Sections 2055, 2106, and 2522.

In the heading of this letter, we indicated whether you must file an annual information return. If you're required to file a return, you must file one of the following by the 15th day of the 5th month after the end of your annual accounting period:

- Form 990, Return of Organization Exempt From Income Tax
- Form 990EZ, Short Form Return of Organization Exempt From Income Tax
- Form 990-N, Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or Form 990-EZ
- Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation

According to IRC Section 6033(j), if you don't file a required annual information return or notice for 3 consecutive years, we'll revoke your tax-exempt status on the due date of the 3rd required return or notice.

You can get IRS forms or publications you need from our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, call 877-829-5500 between 8 a.m. and 5 p.m., local time, Monday through Friday (Alaska and Hawaii follow Pacific

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EXHIBIT A

0248188030
May 27, 2022 LTR 4168C 0
[redacted] 000000 00
00011598

LIVERMORE ART ASSOCIATION
PO BOX 216
LIVERMORE CA 94551

time).

Thank you for your cooperation.

Sincerely yours,

Warren R Burton

Warren R. Burton, Operations Mgr
Accounts Management Operations 1

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Application Form - Project & Program Grants

Deadline: Hand delivered or received via US Mail by 5:00 pm on March 1 or September 1

Submission Date: September 1, 2023

Amount of Grant Request: $ 5800 Total Project Budget: $ 17,110

Applicant/Organization: Livermore Art Association

Applicant/Organization's Address: PO Box 216
Livermore, CA 94551

Applicant/Organization's Web site: www.livermoreartassociation.org

Preparer's Name and Title: Craig Varden, Publicity Chair

Preparer's Phone: [redacted] Preparer's E-mail: [redacted]

Address (for formal notification): [redacted]

Describe the art form of the project or program for which support is requested (i.e., Dance, Theater, Visual Arts, Heritage, Infrastructure, Media/Film/New Media, etc.):

Visual Arts

Briefly describe the project or program for which support is requested:

Spring Arts Program comprised of three major art shows: Spring Art Show, The Essential Figure, andPaint Livermore, our plein air (outdoor painting) competition.

Number of people intended to reach: Audience: 1100 Participants: 220

For the purpose of this application, "audience" means the people who will attend the project or program; "participant" means someone who attends a workshop or class, or else has hands-on involvement in the project or program. If the project or program will have both audiences and participants as defined here, please enter both goals.

Date project or program is scheduled to begin: April 2024
Note: Project events may begin no earlier than two (2) months after the application deadline.

Date project or program is scheduled to end: June 2024

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Application Form - Project & Program Grants

If needed, please use additional paper for this section.

1. State/describe your organization's mission or provide an artist's statement. Include the kind of arts work the organization or artist has done previously and does now. How does this work relate to the proposed project/program? If yours is not an arts organization, state briefly how the arts relate to its mission. (250 words or less)

   See additional pages.

2. Describe the project or program for which you are seeking the grant. Discuss the project's origins. Describe the venue/location, the implementation process, and the timeframe. Discuss the resources — people, money, etc. — you will need to implement the project, whether you already have those resources within your organization or, if not, how you plan to obtain them.

   See additional pages

3. How will the requested grant be used in the planning and implementation of the project or program? (500 words or less.)

   See additional pages.

4. Describe how the program or project specifically addresses one or more of the main strands found in the Cultural Arts Master Plan, artsAlive! (Refer to the Cultural Arts Master Plan Executive Summary in the Public Art Policy Guideline manual.) (250 words or less.)

   See additional pages

5. List the individual(s) or organization(s) you will be partnering with on this project. Be specific regarding the support, both financial and in-kind, they will be providing.

   See additional pages.

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CHECKLIST # 6 Application Form (additional pages)

(6)1. State/describe your organization's mission or provide an artist's statement. Include the kind of arts work the organization or artist has done previously and does now. How does this work relate to the proposed project/program? If yours is not an arts organization, state briefly how the arts relate to its mission. (250 words or less)

The Livermore Art Association (LAA) is a 501(c)(3) non-profit organization founded in 1957. Our mission is to promote public interest in the fine arts and fine crafts, as well as to encourage artistic progress and the development of its membership. Membership is open to anyone interested in the field of arts and crafts. Our membership is currently 185 members and growing.

Our programming is growing and evolving, focused on our members' desire to "show and grow".

- Monthly general meetings featuring talks from accomplished artists sharing their expertise and methods.
- Art-related Workshops.
- ArtTalks where artists come together for artist-to-artist discussions.
- ArtSpace, rotating open studio focusing on a single artist.
- Providing opportunities to show their art – the *Spring Art Program*, Art in the Park, Library Show and more.
- Member pages on LAA's website where members can showcase their work.

We maintain the LAA Gallery at the Carnegie Library - a co-op of LAA artists covering many media, including 2D, 3D and jewelry art. The Gallery invites guest artists and hosts small shows throughout the year.

We participate in local art events hosted by other local community organizations such as Livermore Valley Art's ArtWalk and Livermore Downtown Inc's Holiday Market. By hosting LAA group booths we provide our member artists with an easy way to sell art and get exposure to the local community.

LAA provides awards for children's and youth art at the Alameda County Fair through our Cornell fund, which we have done for many years.

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(6)2. Describe the project or program for which you are seeking the grant. Discuss the project's origins. Describe the venue/location, the implementation process, and the timeframe. Discuss the resources — people, money, etc. — you will need to implement the project, whether you already have those resources within your organization or, if not, how you plan to obtain them.

Our *Spring Arts Program* comprises three art shows: Spring Art Show, The Essential Figure, and Paint Livermore, our plein air (outdoor painting) competition. Combined, the shows represent 80 years visual art exhibits.

The **Spring Art Show** is our premier showcase event and has been an annual event for over 60 years. We include all forms of art, and typically display over 200 pieces. Normally there are 80 participating artists and around 600 visitors. We encourage emerging artists, seniors, and young people to join and include a special show of artwork by the Veteran's hospital art group.

The **Essential Figure Show** is a high-quality figurative art show attracting artists working in any medium, both 2D and 3D. This is one of the only figurative shows offered in the area, giving figure artists a rare opportunity to showcase their work. It was created by well-known Livermore Artist, Barbara Stanton. 2024 will be its 15th year.

The newest addition to our spring series of art shows is **Paint Livermore (PL)** created by Diane and Stephen Rodriguez with Norma Webb, all long-time members, and past officers of the Livermore Art Association. This show encourages artists from all over Northern California to come to Livermore for *plein air* painting -- in town, in the hills, at the wineries and anywhere they find artistic interest. In 2023 we tested collaborating with local businesses with interesting properties for artists to paint. It will be continued next year. The artists that participate include experienced plein air painters and first timers – including artists under 17 years old (5 in 2023).

The *Program* typically attracts 200 artists to the Spring Art show, 35 to 45 participating artists in the Essential Figure Show and between 25 to 50 painters in Paint Livermore. The shows attract over 1000 people from Livermore, the Tri-Valley and the greater Bay Area.

Need

The primary need is monetary as LAA artist members participation is broad and energetic in support of the program. The implementation of the Spring Arts Program is done by the LAA's members. The setup and running of the show are all done by volunteers.

Venue / location

The current venue of the SAS and ESF is the Bothwell Arts Center. Paint Livermore's base of operations is in Carnegie Park.

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Implementation Process

The three shows that comprise our *Spring Art Program* are run starting in April, however planning and preparations start earlier with recruiting volunteers for the show committee, establishing the year's theme and schedule, developing the prospectus (rules of entry), show webpage and entry form, and promoting the calls for entry to artists far and wide.

The shows all have set deadlines and are run smoothly by a volunteer coordinating committee, the artists, and other volunteers. The preparations for the actual event include site setup, receiving and hanging of art, hosting a reception, running the exhibit, and take-down.

Publicity reaches all over the Bay Area and select art groups in North California. Every year we reach a wider audience than the year before. We are continually working to draw in artists and patrons from Livermore to beyond the Bay Area. (The publicity plan developed by LAA's Publicity Chair is attached.)

Timeframe

Planning and preparations for the first shows in the series start in Late January/early February with the actual events scheduled to start in April: The Spring Art Show for early April, the Essential Figure Show for late April and Paint Livermore in the first weekend of June. The actual dates change from year to year and are set to not conflict with other major visual arts events in the area.

Resources

The volunteers required to run the *Program* are already within LAA. We use local businesses as much as possible for external services we need such as musicians for the Spring Art Show reception.

Each component show is budgeted to be zero-balanced. However, with increases in costs due to inflation, it can no longer be done for our smaller shows, and has never been possible for our Spring Art Show without outside monetary support. We have already increased fees for artists, further increases would result in lower participation, putting further strain on the budget, and on artists. We continue to look for additional sources of funding and free/low-cost ways of attracting artists and art patrons in order to increase show income.

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(6)3. How will the requested grant be used in the planning and implementation of the project or program? (500 words or less.)

The grant will be used to achieve break-even finance in the running of the full program. Key income for the *Program* comes from artist entry fees and sales of art to the public. (There is a 20% commission on art sales.) A concern is to attract many diverse artists with reasonable competitive rates of entry fees.

Major cost components are venue, advertising, and awards. We also pay honorarium to Judges, fees for musicians at the Spring Show reception. Food is provided at two shows for volunteer workers and the visiting public. We use the Bothwell for the Spring Art Show and Essential Figure Show; Paint Livermore has no venue cost.

In the past the Grant has been needed to achieve break even finances. It is an important component to allow the *Program* events to happen yearly and keep them affordable to the participating artists.

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(6)4. Describe how the program or project specifically addresses one or more of the main strands found in the Cultural Arts Master Plan, artsAlive! (Refer to the Cultural Arts Master Plan Executive Summary in the Public Art Policy Guideline manual.) (250 words or less.)

This *Program* supports The Arts Commission artsAlive! Mission by adding to the unique sense of place in Livermore (strand 1) and contributes to the visibility and vitality of Livermore visual arts (strand 2). It gives the opportunity to all Livermore artists of diverse interests, backgrounds and ages to show their work to the public.

We endeavor to make the arts accessible to both the artists and the public. The *Spring Arts Program* is open to all visual artists, entry fees are low, and the public is invited to attend at no cost. The *Program* offers art shows that span a broad range of visual art interest, each focusing on a unique aspect of art and it brings in visitors from all over the Bay Area and beyond.

We look to build partnerships with Livermore businesses and other arts organizations as the shows continue to evolve. Each year we support the Veterans Hospital Art program, students, and local artists. We use local musicians for entertainment at our receptions. In 2023, Paint Livermore piloted partnering with local businesses to offer unique painting opportunities for participating artists – something that will be repeated in 2024.

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(6)5. List the individual(s) or organization(s) you will be partnering with on this project. Be specific regarding the support, both financial and in-kind, they will be providing.

The Livermore Art Association will draw upon its 185 members for participation and volunteer support to set up the events, run the events and dismantle the shows. We have a well-known art expert judge at each event. At the Spring Art Show, the judges from the City Commission for the Arts select the City awards and art for display at the Livermore City Hall. Normally, the Livermore Mayor hands out the City of Livermore award.

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Application Form - Project & Program Grants

Project/Program Budget Worksheet *(enter N/A if item does not apply. Attach Budget Notes if necessary.)*

PROJECT SUPPORT *(Do not include in-kind support)*

Earned Revenue	Amount	Notes
Ticket Sales/Admissions	$ 7100	Artist entry fees
Tuition/Workshop fees	$	
Other:	$ 4200	Art sales 80% to artists, 20% to LAA)
Subtotal: Earned Revenue	$ 11,300	

Contributed Income	Amount	In-hand	Pending
Contributions *(Individuals/Businesses)*	$	$	$
Grants *(Foundations/Government other than City)*	$	$	$
City of Livermore *(other than this grant request)*	$	$	$
Other:	$	$	$
Subtotal: Contributed Income	$ 0	$	$

Project & Program Grant Amount Requested	$ 5800
Total Project Support (Revenue + Income + Grant)	$ 17,100

PROJECT EXPENSE *(Do not include in-kind expense)*

Personnel	**Amount**	**Notes**
Artistic	$	
Production	$	
Administrative	$	
Other: *(describe in Notes)*	$	
Subtotal: Personnel	$	

General	**Amount**	**Notes**
Venue Rental	$ 4700	Bothwell room rental
Materials and Supplies	$ 1040	See Budget Notes
Marketing and Promotion	$ 2100	See Budget Notes
Transportation	$ 0	
Insurance	$ 800	
Other: *(describe in Notes)*	$ 8470	See Budget Notes
Subtotal: General	$ 17,110	

Total Project Expenses (Personnel + General)	$ 17,110
Project Surplus (Loss) (*Total Support minus Total Expense*)	$ (10)

If Project Net is a negative value, explain in the Budget Notes how it will be covered.

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Matching Funds

All Project and Program Grant applicants must provide at least a dollar-for-dollar (one-to-one) match for the grant award, no less than 50 percent of which must be a cash match. The cash match must be from sources other than the City of Livermore.

In-kind contributions are allowed as part of the match only on the following limited basis:

1. In-kind contributions cannot be used for more than half of the required match, in other words, they cannot represent more than 50 percent of the value of the grant award; and,
2. The value of in-kind contributions, i.e., goods and services, must offset line item expenditures in the project budget and their value must be documentable with invoices or billing statements.

In-kind contributions must be listed below or on a separate sheet attached to the Budget Notes.

Source	Description	Fair Market Value
Entry Fees	Artist entry fees set for each show.	$ 7940
Art Sales	20% of sold art, LAA's Commission	$ 840
		$
		$
		$
		$

Requested Grant Amount: $ 5800

Cash Match Amount: $ 8780

In-kind Match Amount: $ 0

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CHECKLIST # 7 Notes to the Project Budget

Budget Deficit

The show budget is conservative estimates based on past shows and other considerations. The following factors are ways in which the loss can be covered:

- Investigate ways to lower Bothwell rental costs in upcoming negotiations with LVPAC.
- Work for increased art sales with our 20% commission attached.
- Attract more artists to enter the show thus increasing the income from entry fees. (We have already increased entry fees.)
- Approach local businesses for donations or sponsorships

If in the end the deficit remains, LAA would need to make up with sales at the Livermore Art Association Gallery located at the Carnegie Library and through other LAA programming.

Income

Art Entry Fees	Estimate based on history. Fees are charged for each art piece entered in the show.
Art Sales	This is the total sales of artwork and art objects sold during the show. This is comprised of show floor art sales and art gift shop/table. 80% of sales money is paid to the artist, 20% is LAA commission.

Contributed Income

None.

Expenses

Expenses categories for shows are consistent across shows. The numbers presented are a total for the program. It is indicated when an item is only applicable to one show.

Venue Rental	Rental of the Bothwell from Livermore Valley Arts, including days for setup, and exhibition. This is required for the Spring Art Show and Essential Figure Show.
Materials and Supplies	General supplies for painting and displays for setup. Award ribbons Stationery for artist badges, artwork labels, programs

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	Food for volunteer lunches for setup and take down, and food for award receptions. Food for the Spring Art Show award reception is of high-quality, fitting for the special nature of the event.
Marketing and Promotion	For Livermore advertising space such as the Independent, color postcards and poster advertising for shops and art centers located around the Tri-Valley and the greater Bay Area. A fourth Street banner paid to the City is included for the Spring Art Show. Printing service for programs We will need to spend additional money on advertising this coming year to make up for no longer being able to put out temporary signs in Livermore during the events.
Transportation	We now use member vehicles to transport show equipment between storage and the venue.
Insurance	This is for coverage at the event and in cases of loss or damage to art.
Other	**Entertainment** by local musicians for the award reception at the Spring Art Show. The reception is historically attended by the Mayor of Livermore, the artists and the public. **Monetary awards** to artists who achieve prizes in art categories (per judge). This is a key attraction to the artists submitting and paying the entry fees (see Income). **Fees** paid for card payment processing. **Payments to artists** for their portion of the sales. 80% of sales money is paid to the artist, 20% is LAA commission. **Security** is now required by Livermore Valley Arts for the awards ceremony. **Honorarium for judge** at each show. An accomplished judge is engaged to judge the artwork and grant awards. Cost of online entry forms, show websites and software used for all the shows.

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CHECKLIST # 8 List of *key* project individuals with brief job description

Christine McCall	Spring Art Show Chair	Oversees full operation of the Spring Art Show
Helen Harrison	Spring Art Show Co-Chair	Organizes the sales operation and general support
Stephen Rodriguez	Spring Art Show Consultant	Former Head of the Spring Art Show, he remains a key consultant for all aspects
Craig Varden	Spring Art Show Co-Chair, LAA Publicity Chair	Implements the marketing and publicity for LAA shows. Organizes the logistics with Richard Finn, LAA Property Chair.
Barbara Stanton	Essential Figure Show Chair	Creator, Organizer. Chair of event
Paula Duvall	Paint Livermore Show Chair	Responsible for full operation of the show.
Georgia Jacobs	Hospitality	Coordinates the food and receptions for the *Spring Art Program*
Clark Streeter	LAA Liaison of Shows	LAA Past President, oversees the *Spring Art Program*
Christine Watters	President, Livermore Art Association	Oversees all the operations for LAA

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CHECKLIST # 9 Resumes/biographies of key project individuals (1 pg each)

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CHRISTINE MCCALL – Spring Art Show Chair

COO The Last Factory

Kaleidoscope Clock Artist

Web Designer for Livermore businesses and non-profits

I was born and raised in Ohio and attended Miami University to obtain a B.S. in Systems Analysis. I moved to Livermore 15 years ago when my husband started working at LLNL. After a 20-year career in software engineering, I joined LAA in 2008. I became Publicity Chair, which evolved into maintaining the organization website. I moved into the field of website design and created sites for many local businesses and non-profits. I also taught artists how to set up their own websites on a budget. Due to my artistic style, I became known around town as the "Kaleidoscope Lady". My artworks are based on the historic buildings and clocks of Livermore. I sold these prints at the local gift shop in Blacksmith Square as well as the Carnegie Art Gallery.

In 2012 I joined The Last Factory, a Livermore business with a 40-year history, as the new webmaster. The job grew in responsibility as I learned every aspect of the company until I was able to manage it for the owner. I am now COO of the company.

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HELEN HARRISON- Spring Art Show Co-Chair

Although most of my schooling and informative years were spent in Las Vegas, NV, I have lived in various parts of California most of my life. Currently, I live in Tracy and have been here for 31 years. I joined the Livermore Art Association 8 years ago. I was a member of the Livermore Art Association Gallery for about the same amount of time.

I make jewelry. My style is beading with gemstones. Friends invited me to a bead show and I have been hooked ever since.

This will be my third time to volunteer with the Spring Art Show successfully running the gift shop. My plan is to help with this show for years to come.

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STEPHEN RODRIGUEZ – Spring Art Show Consultant

Lifetime LAA member

Past Spring Art Show Chair

Past Board President, Treasurer, Membership Chair

I am a Bay Area product and have lived in the Livermore Valley for nearly 50 years.

I am a member of the Livermore Art Association and have held several positions: Membership Chair, President and Treasurer. I am also a member of the Pleasanton Art League.

I have chaired or co-chaired countless art shows for LAA and other associations in the Tri-Valley.

I also volunteer with the San Francisco Bay Area Council of the Boy Scouts of America. I have been involved with the BSA in the Bay Area for decades.

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CRAIG B. VARDEN – Spring Art Show Co-Chair

Born: New York, New York

Education: Denison University, Ohio; BA History

Education: Columbia University, New York, NY; MBA Marketing-Finance

Lived: England, Italy, Ethiopia, Eritrea, Mexico, Philippines, Indonesia, Taiwan, China, Singapore

Military: US Navy Enlisted / Officer Candidate School / Lieutenant

Career:

- Sterling Drug International / New York/ Philippines / Indonesia / Taiwan ROC / General Manager
- Getz Bro International (Distributor) / Singapore / Managing Director
- H. Warta Transmarco (Photo – TV equipment) / Singapore / General Manager
- SciClone Pharmaceuticals International / Singapore / Pacific Rim Managing Director

Livermore Connections: Resident ten years / Graduate "Key to the City" program

Art Connections: Member of the Livermore Art Association for 6 years. Active in meetings and Spring Art Show. Photographer with sales in many countries. Member for 46 years in SuperStock Photgraphic Agency and three others in New York and Hong Kong.

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BARBARA STANTON – Essential Figure Show Chair

Creator and ongoing Chair of Essential Figure Show

Art Teacher

Past LAA Gallery Director, LAA Board Publicity Chair

Our chairperson for the Essential Figure Show is award winning, internationally known artist, Barbara Stanton who specializes in miniature paintings and life drawings. Barbara has been painting for more than forty-five years now. Because of her skills at portraiture, she was chosen to paint the mural "Pioneer Founders of Pleasanton" for the City of Pleasanton, which was finished in 2014. In 2016, Barbara was the first American artist to be featured on the Australian TV show "Colour in Your Life".

Barbara has lived in Livermore for almost forty years now. She is very active in the local art community and is a long-time member of the LAA and was on the board as publicity chair for several years. Barbara was the Gallery Director for the LAA Gallery in the Carnegie building downtown for five years. Currently, she runs the Figure Drawing workshop and teaches art classes for children and adults every Fri. at Livermore's Bothwell Arts Center, as well as numerous workshops and demonstrations for California art groups.

Barbara founded the Essential Figure Show and has chaired it every year. 2023 was its 14th year.

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PAULA DUVALL – Paint Livermore Show Chair

Paula Duvall is an active acrylic artist who shares her time between Livermore, CA and in Albuquerque, NM. She went to University of NM studied anthropology and art and is currently studying with M. Tobias Hall, faculty member of the Ryder Studio in Santa Fe, NM and a visiting faculty member of The Bay Area Classical Art Atelier in San Carlos, CA. She has worked in Schelu Gallery in Albuquerque's historic Old Town.

Paula is a member of Livermore Art Association and The Rio Grande Art Association. She took over chairing Paint Livermore in 2023 and is returning as chair in 2024 and 2025.

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GEORGIA JACOBS – Hospitality

LAA Membership and Hospitality Chair since 2019

Member LAA Gallery

I am a retired English teacher with a MA in Teaching and Teacher Education. I was the department chair of 21 teachers for five years. I also was the District Mentor Teacher training new teachers. I also owned and operated an exercise and dance studio in Tucson that evolved into a retail store. After 15 years I sold the store.

Since moving to Livermore in 2014 I have become a member of the Livermore Art Association. I am in my fourth year volunteering on the LAA board as hospitality and membership chairperson. In addition to my duties as membership chair, I developed our ArtSpace program, which encourages artists to open their studios for others to visit and learn new techniques and see other's workspaces.

As Hospitality chair, I provide refreshments for art receptions and meetings, organize and co-chair the annual potluck dinner.

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CLARK STREETER – Liaison of Shows, Past-President of LAA

I have lived in California my entire (so far) life. Born in Yuba City, grew up in Sacramento. After attending Junior College for 3 years, I transferred to Stanford from which I graduated with a BA in Philosophy in 1962. I worked in Aerospace (Aerojet General, Lockheed) until I joined LLNL in 1964. I programmed supercomputers for 36 years, until I retired in 2000.

Many of my ancestors moved to California in the mid 1800's either by wagon train (farming) or ship (gold).

I did some painting and drawing in my youth. Later, I designed a number of stage sets. In 1985, I decided to take up photography. I started with a medium format camera (Mamiya 220) and my own darkroom. Now, of course, it is all digital.

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CHRISTINE WATTERS – President, Livermore Art Association

LAA President since January 2022

Programs Chair for 3 years

LAA Webmaster and tech support

Textile and Mixed Media Artist

Raised in Vancouver BC and Kingston Ontario and attended Queen's University in Kingston, graduating with Bachelor of Science, Honors degree in Biology. Worked in biotech, pharmaceutical, and vaccines for 15 years. In 2016 moved with my husband and daughter to Pleasanton and to Livermore in 2017.

I joined LAA and was invited to take over Programs by the then Programs chair Marge Haggin, who mentored me for the first year. Over the last 4 years on the board I have progressively been getting more involved. During the pandemic I worked collaboratively with a small team from LAA, PAL and DAC to provide programming for the three organizations. I worked on the New Dawn online show in 2021, a first for LAA, where I designed and managed the submission process and website.

In January 2022 I took over the role of President for LAA. During this time LAA has continued to grow. Our membership has increased by 50%. We are offering workshops and monthly programs in addition to our general meetings. What is most exciting is our volunteer involvement has grown as well.

As an artist: I have always worked with textiles, started at the age of 10 when I made my first quilt. I fell in love with textile arts in the mid 1990's and have worked in it for the last 20+ years. I like to use textiles in unconventional ways, combining different media and techniques to produce stitched paintings and sculptural pieces.

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CHECKLIST # 10 Brochures & Catalogues

Up to four items in any combination of brochures, catalogues, performance programs or similar organizational publications/materials.



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CHECKLIST # 11 Press Reviews

Up to four recent press reviews or articles or similar independently generated published materials.

THE Independent

Thursday, APRIL 20, 2023

VOLUME LX, NUMBER 15 Your Local News Source Since 1963 SERVING DUBLIN, LIVERMORE, PLEASANTON, SUNOL

Art Exhibit Coming to Bothwell

The nonprofit Livermore Art Association will hold its annual Figurative Art exhibition, featuring works by local artists focusing on the human figure, at the Bothwell Arts Center, 2466 Eighth St., Livermore, from 11 a.m. to 4 p.m., Friday, April 21, through Sunday, April 23.

There will an artist reception from noon to 3:30 p.m. on Saturday, with the presentation of awards at 1:30 p.m. The People's Choice award will be announced at 3:30 p.m. on Sunday.

The exhibit is free and open to the public.



Pleasanton Senior Center to Host 29th Annual Watercolor Show

The Pleasanton Senior Center, 5353 Sunol Blvd., will host the 29th annual reception and exhibition of watercolors by Charlotte Severin and students from her city-sponsored "Art Made Easy" classes from 7 p.m. to 9 p.m. on Monday, April 29.

Severin, a retired nurse, is an award-winning Bay Area plein air artist and was founding president of the nonprofit Pleasanton Cultural Arts Council (PCAC).

Severin, now 86, began teaching watercolor classes for the Pleasanton Parks Department in 1994. Her Thursday afternoons.

She was also a health consultant and watercolor instructor for the Livermore and Pleasanton school districts for more than 25 years.

"Painting is my soul," Severin said recently. "As long as I can, I will keep on painting. I love the students."

Students whose watercolors will be on display with Severin's paintings include Cindy Alvarez, Cynthia Altman, Claudia Curran, Henry Murakami, Betty Nostrand, Trish Adams, Gerri Vegas, and Janice Cantua.

The reception is [illegible]

TRI-VALLEY CA

Thursday, April 20
CARRINGTON COLLEGE SAN LEANDRO OPEN HOUS
The Carrington College San Leandro campus will be an Open House from 10 a.m. to noon, at 15555 Ea St., in San Leandro. The event will include a Pet A Fair with local non-profit K911 Animal Rescue, as well demonstrations with students from the veterinary tech dental assisting, medical assisting and pharmacy tech programs. Visitors can also view training equipment a to instructors while touring the campus.

Friday, April 21 to Sunday, April 23
FIGURATIVE ART EXHIBITION AT THE BOTHWELL ARTS CENTER
The Livermore Art Association is hosting its 14th Figurative Art exhibition at the Bothwell Arts Center, w free and open to the public. The exhibit will be open ea from 11 a.m. to 4 p.m. The show will feature works fro artists, with the human figure as the main focus. The pi invited to attend the reception and awards presentation Bothwell Arts Center on April 22 at noon. Attendees ca the exhibit, purchase affordable art, and meet the artis more information, call 925-373-9738.

Saturday, April 22
HAPPY 150TH BIRTHDAY, RACHMANINOFF!
At 7:30 p.m., at First Presbyterian Church, 2020 Fif in Livermore, experience a special musical event concert pianist Daniel Glover performs musical selecti Rachmaninoff in celebration of his 150th birthday, as v waltzes, marches and more by equally well-known comp representing four periods of music: Baroque, Classical, R tic and 20th Century. Tickets are $30. Advance ticket be purchased at valleyconcertchorale.org. Proceeds fro performance will benefit the Valley Concert Chorale. For information about the Valley Concert Chorale performa ticket purchases and auditions, visit valleyconcertchora or call the general information line at 925-866-4003.

Sunday, April 23
ST. BART'S BUFFET BRUNCH BENEFITS BIG HEART GARDEN
St. Bartholomew's Episcopal Church will present a Sprin Buffet Brunch at noon. The festive meal of Vietnamese salads and desserts will raise funds for St. Bart's Big Garden, which raises organic produce for clients of the faith Sharing Food Pantry. The church is located at 678 Way, in Livermore. Brunch tickets are $20. For informatio reservations, contact stbartsgarden@gmail.com.

Sunday, April 23
TRINITY CONCERT SERIES THE VERVE TRIO: CLASSI
Founded in 2019, the Verve Trio is comprised of pianist Lin Yang, violinist Elbert Tsai, and cellist Brady Anderson trio has engaged audiences throughout the San Francisc Area with innovative programs featuring familiar masterp as well as lesser-known works highlighting the influen tango and jazz. The concert takes place at 4 p.m., at Trinit theran Church, 1225 Hopyard Road, in Pleasanton. Sugg contributions are $20 for general admission; $5 for stud and free for those age 12 and under. Proceeds suppor artists and ongoing concert series.

Sunday, April 23

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THE Independent

Thursday, MARCH 30, 2023

VOLUME LX, NUMBER 12

Your Local News Source Since 1963

SERVING DUBLIN, LIVERMORE, PLEASANTON, SUNOL

Department Struggles to Retain Officers

By David Jen

PLEASANTON Staff-



Community-Led Effort Underway to Address Water Contamination

Best of Show at Alameda Wine Competition

Three local winemakers topped the charts this year: Brent Amos (Las Positas) with seven Golds, Meredith Sarboraria (Rodrigue Molyneaux) with six Golds and Aaron Luna, (Fenestra, Garré and Del Valle) with three Golds.

The winner of the Sauvignon Summit was 2022 Pope Valley Winery, Block 3 Sauvignon Blanc. Almost Famous brought home Gold for their 2022 Pistachio Lane SB, and Darcie Kent's 2022 SB also scored Gold.

Zinfandel Challenge drew a huge response. Local Golds went to Concannon and Garre. The 2020 Florence Vineyard Zin from Rockpile prevailed as Best of Show Zin. Macchia's "Flirtatious" won Best Zin Dessert Wine, a category in which Mitchell Katz brought home a Gold for the cheekily named 2016 Mt. Meenao Late Harvest Zin, which somehow made it past TTB.

The judges this year included: Barry Herbst, Pat Henderson, Susan Reiner-Lyon, Jamie Knee, Joel Green, Julie Schreiber, Meredith Sarboraria, Laura Ness, Brent Amos and Alison Schneider.

ARROYO CELLARS

Tasting Room Open:
Saturday: 12 - 5pm,
Sunday: 12 - 5pm,
or by appointment

2270 Research Drive, Livermore
(925) 292-9157



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www.independentnews.com

Barbara Stanton poses with her winning entry, "Self Portrait on an Old Brush," at the Livermore Art Association's Spring Art Show. The Livermore Commission for the Arts supports the show and chooses seven winning artworks to display at Livermore City Hall. The artwork will be on display on the first floor of Livermore City Hall until May 10. (Photo courtesy of Craig Varden)

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THE Independent

Thursday,
JUNE 8, 2023
VOLUME LX, NUMBER 22

Your Local News Source Since 1963

SERVING DUBLIN, LIVERMORE, PLEASANTON, SUNOL



Kark Kappler paints Livermore's old city hall and police station at the corner of McLeod and First streets during last weekend's Paint Livermore 2023 competition. The annual outdoor event is hosted by the Livermore Art. |*See photo gallery at www.independentnews.com/multimedia*| (Photo - Doug Jorgensen)

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SPRING ART SHOW



Large crowd



Surprising art from Brentwood



The Mayor Presents the City Awards



LAA supports Veterans Hospital



Gift Shop support the show



Many discussions about art.

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ESSENTIAL FIGURE SHOW



Barbara Stanton Creator and Organizer



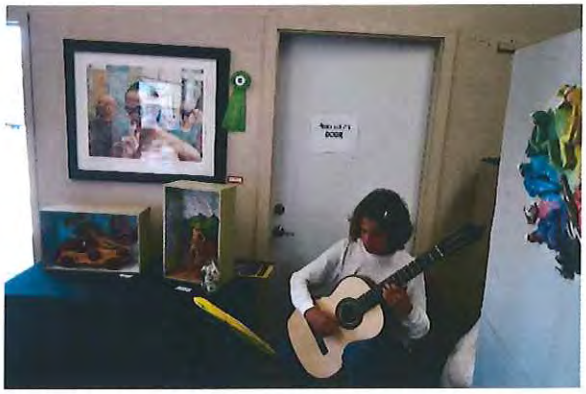
High interest in high quality art





Show open on the weekend always draws a good crowd to the Bothwell





Volunteer musician adds atmosphere

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PAINT LIVERMORE EVENT



Good public turn out



Youth Award with Judge Lorraine Wells



First prize to San Francisco Artist



Paint Livermore gathers in Carnegie Park



Local Artists Dennis Baker at Paint Livermore 2022



Mark Monserrat from San Carlos

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LIVERMORE ART ASSOCIATION

SPRING ARTS PROGRAM
2024 MARKETING PLAN

Craig Varden

Livermore Art Association

Publicity Chair

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BACKGROUND

The Livermore Art Association (LAA) has a number of events each Spring. There have been many events over the 66 years of the LAA. The Spring Art show is the premier show of the group. Essential Figure Show is a top-quality figurative show. Paint Livermore is a fun weekend for plein air painters all around town. Artists come from all over the Bay Area to participate and see the events and enjoy Livermore. The show itself is free to visitors. The art shown is for sale as well. The Association takes a commission on each to augment the show financial input.

MARKETING OBJECTIVE

To increase total event visitors to the shows from 700 (2023) to more than 800 (2024) +14%. This will possibly increase the art sales income component for the shows as well as support Livermore with added visitors. Last year attendance was up but sales lagged.

To attract artist visitors to the Spring Arts Program from over the Bay Area and beyond.

To enlist Livermore artists to bring friends and relatives to the shows via organization "Portfolio" Publication and our Constant Contact communication.

TARGET MARKET

Participating artists:

- For the Spring Art Show: Painters, photographers, wood artists , Ceramic artists, Jewelry, Quilting and art visitors.
- For Essential figure. any artist dealing in figurative art.
- For Paint Livermore, reach and bring in more plein Air artists from the Valley, Bay Area and North California as reached by press and Art – Photography groups LAA Email lists.

Attending audience: Senior Centers, religious groups, general public as reached through advertising and email lists we hold.

Attract friends and relatives of Livermore artists and participating artists.

POSITIONING

Something exciting to do on the weekend of the events. The shows are premier events with fine arts and things to do in the Valley.

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ADVERTISING / MARKETING TOOLS

Press release two and one week before show to all Bay area Newspapers and Magazines in the target group.

Liaison with Bay area art organizations by email. We now have list of interested artists and art groups in towns around the valley near towns and beyond. The number of emails addresses is over 600.

Livermore 4th Avenue banner for the Spring Art Show. (City of Livermore's Banner Program)

Produce hand-outs and posters / postcards for all events. Post in the valley.

"Invite Friends" Program where Livermore Artists are asked to bring in relatives and friends to the show.

Social media promotions on LAA's Instagram and Facebook pages and asking artists to share their involvement on their feeds / with their followers.

TIMING

Send out Press Releases in time to have in newspapers just before the events.

Further develop full list of art associations in Bay Area. Correct current email lists that were rejected and sent back in 2023.

Send out two communications waves or more to Bay Area art groups each event. Sometimes riding events together.

Place Banner at 4rd street in March 2024 for Spring Art Show event.

Book City Kiosks for each Spring Arts Program events

Ask Livermore Artists to be sure to invite friends and family to the show. Place in the "Portfolio" publication and "Constant Contact" the run before the show

MARKETING THEMES

A great weekend of art, eating, wine and shopping.

Enjoy the Livermore Spring Art Program events and enjoy Livermore the event weekend, including the downtown restaurants, 50 Wineries, and the biggest shopping outlet in the Bay Area.

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TARGET MEDIA:

Newspaper Magazines

Placing at least on the calendars & or press release:

- The Independent / San Francisco Chronical / East Bay Times /
- Pleasanton Weekly / Tracy Press / SF Weekly /Brentwood Press / Your Town / Diablo Magazine / Danville San Ramon News / Castro Valley Forum / Alamo Today & Danville Today / Contracosta News /

Online Nets

- Portfolio for PAL and LAA members /
- Livermore Art Association & Pleasanton Art League Constant Contact (member mailing list)
- Social Media: LAA Facebook / Instagram
- Patch (multi towns) / Nextdoor (multi towns) / Visit Tri Valley
- Radio with nets
- LCAC Member Net / LCAC Outside net
- Livermore Downtown Inc
- Arts Organizations Websites: Dublin Art Collective / Livermore Valley Arts / AVA / San Ramon Art Association / Fremont Art Association / Tracy Art League

Poster / Postcards

- Livermore 30 locations
- Dublin 3 locations
- Pleasanton 10 locations
- San Ramon 1 location

Radio

- Three stations in near area

Email Lists currently 600+

30 minute (driving) zone art groups / 60 minute zone art groups / Over 60 minute zone art groups / 60 minutes zone photography groups / Spring Show sign in lists from previous years / Members of Livermore Art Association / College art department teachers within 30 minutes / Art groups in Quilting, metal arts, sculpture, ceramics, wood work. / Special lists Bankhead Photography, Celebrate women list

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CITY OF LIVERMORE FACILITIES

Arrange for Spring Art Show banner on 4th street through City in March

Produce special posters and arrange for posters on City kiosks.

To see if we can get City web calendar spots.

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EXHIBIT B

INSURANCE REQUIREMENTS

Minimum Scope and Limits of Insurance
Consultant/Contractor shall maintain limits no less than:

Commercial General Liability, including operations, products and completed operations, as applicable: **$1,000,000/$2,000,000** aggregate per occurrence 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.

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 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. 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,

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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.

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EXHIBIT A

LIVERMORE
CALIFORNIA

BRAND GUIDELINES

CITY OF
LIVERMORE
CALIFORNIA

INTRODUCTION.....2

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INTRODUCTION

As a unique community amongst over 400 California cities, the brand for the City of Livermore is critical—it builds recognition and trust, and it's a reflection of our spirit. Livermore has a rich history and a dynamic future—we honor both past and future by putting forth a consistent, engaging appearance for our communications and media. We are stewards of the Livermore brand. To make our communications strategy effective, we need our materials to express Livermore's core values:

RICH HISTORY ROOTED IN WESTERN HERITAGE	CONNECTION TO THE LAND THROUGH VITICULTURE AND OPEN SPACE PRESERVATION	EDUCATED AND FORWARD-THINKING COMMUNITY EXEMPLIFIED BY SCIENCE AND TECHNOLOGY	SHARING OF THE HUMAN SPIRIT THROUGH ARTS AND CULTURE

By communicating these values clearly and consistently, Livermore will benefit from a unique identity that resonates with residents, businesses, neighbors and visitors from near and far.

BRAND INTEGRITY

The way we communicate through visual, digital and written communications helps strengthen our connection with residents as well as the wider world. These Brand Guidelines are an important tool to ensure that a consistent tone, look and feel are conveyed. Ultimately, this means that the City's messaging will be more effective.

SUB-BRANDING

Sub-branding is the creation of visuals and materials that are unique to a given department, event or initiative, not fully reflecting the overall City brand appearance. For instance, the Livermore Police Department sub-brand.

Sub-branding must be in alignment with the City's overall brand. Such sub-branding may be requested for projects, events, committees or other special uses. Contact the Public Information Officer for any requests or questions regarding sub-branding.

Ultimately, it is people that maintain and protect the City's brand, so please join in the effort to uphold these guidelines. With everything the City of Livermore has to offer, each day is another chance to share that "There's More Here."

If you have any questions, please reach out to the Public Information Officer by contacting the City:

925-960-4000
communications@LivermoreCA.gov

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LOGO USAGE

Standard Version



The logo is comprised of these four parts.

The logo is comprised of four parts: the capital letters “CITY OF”, “LIVERMORE”, “CALIFORNIA” and a graphic grape leaf. The type is a customized combination of display caps and ITC Legacy Sans Serif fonts; the blue color telegraphs stability, trust and accessibility. The stylized leaf, illustrated in an earthy olive green, symbolizes the growth and vitality that lives throughout the City. The logo is incomplete if any of these elements are deleted.

Other Logo Configurations

There are cases in which other configurations are permitted. Specific guidance is provided later in these Guidelines.

STANDARD
City of Livermore



STANDARD VERTICAL
City of Livermore
Stacked



STANDARD STACKED
City of Livermore
Stacked



CASUAL
Livermore



CASUAL
Livermore
Stacked



LIMITED USE: SLOGAN*
Livermore
Tagline



LIMITED USE*
City of Livermore
Arched



LIMITED USE*
Livermore
Arched



CUSTOMIZABLE**
City of Livermore
Departments



GRAPHIC ASSET
Leaf or Leaf Circle



* Limited-use logos are for specific audiences or design considerations. The Public Information Officer (PIO) can advise.

** Department/division logos are available through the PIO. New logos should not be generated without approval.
Reach the Public Information Officer by contacting the City: 925-960-4000 / communications@LivermoreCA.gov

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Logo Coloring

The logo colors are periwinkle blue and olive green. The logo should be used in color whenever possible. Never alter colors or tints of the logo.

The medium for reproducing the logo (print vs. digital) determines which colors are specified. The printing process uses Pantone inks or 4-color process inks. Digital/web colors are based on RGB colors. The colors are shown to the right.

The color logo should be featured on a white background whenever possible to promote readability. This uncluttered look contributes to the specialness of the logo.

GREEN
PANTONE: 100% PMS 5845
4-C PROCESS: 35% cyan, 22% magenta, 76% yellow, 1% black
RGB: 174 red, 175 green, 95 blue / HEX: #aeaf5f

CITY OF LIVERMORE CALIFORNIA

BLUE
PANTONE: 100% PMS 5275
4-C PROCESS: 70% cyan, 62% magenta, 27% yellow, 6% black
RGB: 96 red, 100 green, 137 blue / HEX: #606489

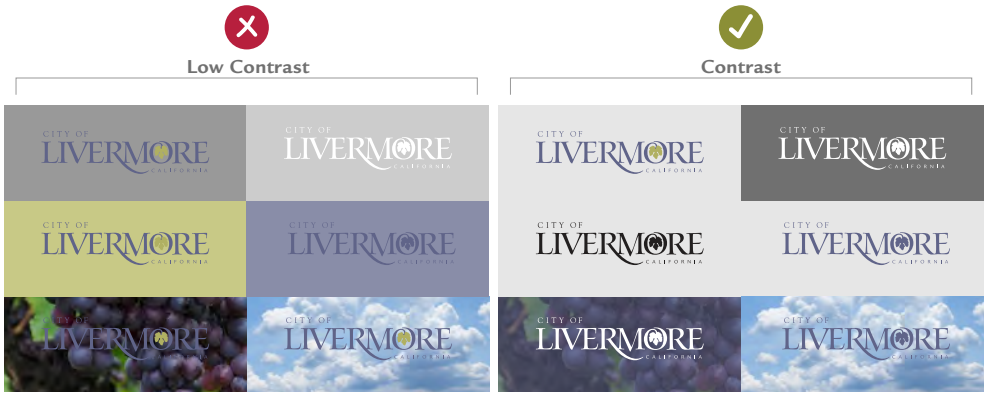
GRAY
PANTONE: 50% black
4-C PROCESS: 50% black
RGB: 153 red, 153 green, 153 blue / HEX: #90

CITY OF LIVERMORE CALIFORNIA

BLACK
PANTONE: 100% black
4-C PROCESS: 100% black
RGB: 51 red, 51 green, 51 blue / HEX: #050606

BACKGROUND CONTRAST

Contrast is an important part of visual accessibility. Depending on the background, a solid black logo or solid white logo is sometimes necessary. For dark backgrounds, use a white logo. For light backgrounds in which the blue/green logo does not have enough contrast, use a black logo. Consider avoiding complicated background photos. If necessary, underlay the logo with opaque box to increase contrast. When in doubt, err on the side of increasing contrast.



Pro tip: for non-decorative elements, like text or information, foreground color should be roughly 4.5X brighter or darker than the background color to satisfy industry minimum WCAG AA recommendation. 7X brighter satisfies full AAA recommendation. Smaller text requires more contrast. There are numerous online tools to assist in measuring contrast.

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Logo Integrity

Maintain the type font, size and spacing between the logo elements: text, icon and tagline. These elements should not be recolored or repositioned in any way other than specified in this guide.

MINIMUM SIZE

Size matters and using the logo too small compromises its integrity. Note the minimum width shown here for using the logos and icons at their smallest permissible sizes.



PROTECTIVE AREA AROUND THE LOGO

A generous protective space around the logo is an essential element of the logo's design and success. Never place another logo, type or graphic element in this clearspace. Do not place the logo on any complicated or photographic background.

The protective clearspace around the logo is determined by the height of the capital letter "L" as noted with an "x." This clearspace is required for all logo versions.



Same holds true for all logos.



VERTICALLY CENTERING THE LOGO

Note that the high visual "center of gravity" for the non-tagline logo. For cases where the non-tagline logo is vertically centered in space, note that the center line should fall in the vertical middle of the "LIVERMORE" text.



Vertically center on "Livermore" text.

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Alternate Logo Configurations

STANDARD

Used for standard Livermore branding.

Unless there is a specific reason to use an alternate configuration, it's best to use standard logo. Certain designs may work better with the stacked logo.

STANDARD

STANDARD VERTICAL

STANDARD STACKED

CASUAL

"City of" text not included.

Used in special cases where a casual tone is permitted, or where a simpler logo is necessary. Also exists on some older materials.

TAGLINE *Includes "There's More Here" marketing text.*

The tagline acts as a marketing message and should be used discriminately when that message is relevant. This language reflects the opportunity for discovery and potential that awaits those unaware of or misguided in their impression of exploring the City.

FOR CONSISTENCY, THE TAGLINE SHOULD NEVER BE CHANGED TO A DIFFERENT MESSAGE.

ARCHED

For very limited uses, an arched version is possible, but not encouraged. Please contact the Public Information Officer for permission.

DEPARTMENTS

A customized logo is available for use by departments/divisions. Please contact the Public Information Officer for permission or to be provided a special departmental logo.

NEW DEPARTMENT LOGOS TO BE CREATED ONLY WITH PIO PERMISSION.

ICON OPTIONS *Can be used decoratively, or as a stand-alone icon, and can use any brand coloring.*

ICONS CAN BE USED IN ADDITION TO, NOT INSTEAD OF, AN ACTUAL LIVERMORE LOGO.

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Incorrect Logo use

Using the logo correctly as outlined in this guide ensures the strength of the logo and ultimately better represents the City of Livermore. There are many ways to misuse the logo and a few common examples are shown on this page.



✖ Do not rotate.



✖ Do not distort.



✖ Do not resize or move elements.

a



✖ Do not add special effects.



✖ Do not use low-contrast.



✖ Do not use too small.



✖ Do not change colors.



✖ Do not change fonts.



✖ Do not crowd.

DO contact the Public Information Officer with any questions:
925-960-4000 / communications@LivermoreCA.gov

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TYPOGRAPHY

Brand Fonts

MOST COMMONLY USED FOR PROFESSIONAL PRINTING. The City uses two fonts: Goudy, a serif font, and the ITC Legacy Sans sans-serif font family. These fonts support the overall identity and should be used whenever possible. Goudy is good for headers and special text sections, not for body text; do not use an italicized or bolded version. ITC Legacy Sans offers several weights, good for overall usage. Both font families may be used on the same piece of communication.

GOUDY

AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

Goudy: Regular (only) ... ALLCAPS permitted

ITC Legacy Sans

AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

Legacy Sans: Book	AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz
Legacy Sans: Book Italic	*AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz*
Legacy Sans: Medium	AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz
Legacy Sans: Medium Italic	*AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz*
Legacy Sans: Bold	**AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz**

FONT ALTERNATES

MICROSOFT OFFICE ALTERNATES: below are the alternates to use in Microsoft Office when the main brand fonts are unavailable. These are very common default fonts installed with most Microsoft applications and are good for documents that are being shared across multiple systems.

Microsoft Office alternate to Goudy: Times New Roman

AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

Microsoft Office alternate to ITC Legacy Sans: Calibri

AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

FREE GOOGLE FONTS: below are the alternates to use when the above brand fonts are unavailable. Some apps and online platforms, like Google Docs or Canva, are limited to Google fonts.

Google alternate to Goudy: Libre Baskerville

AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

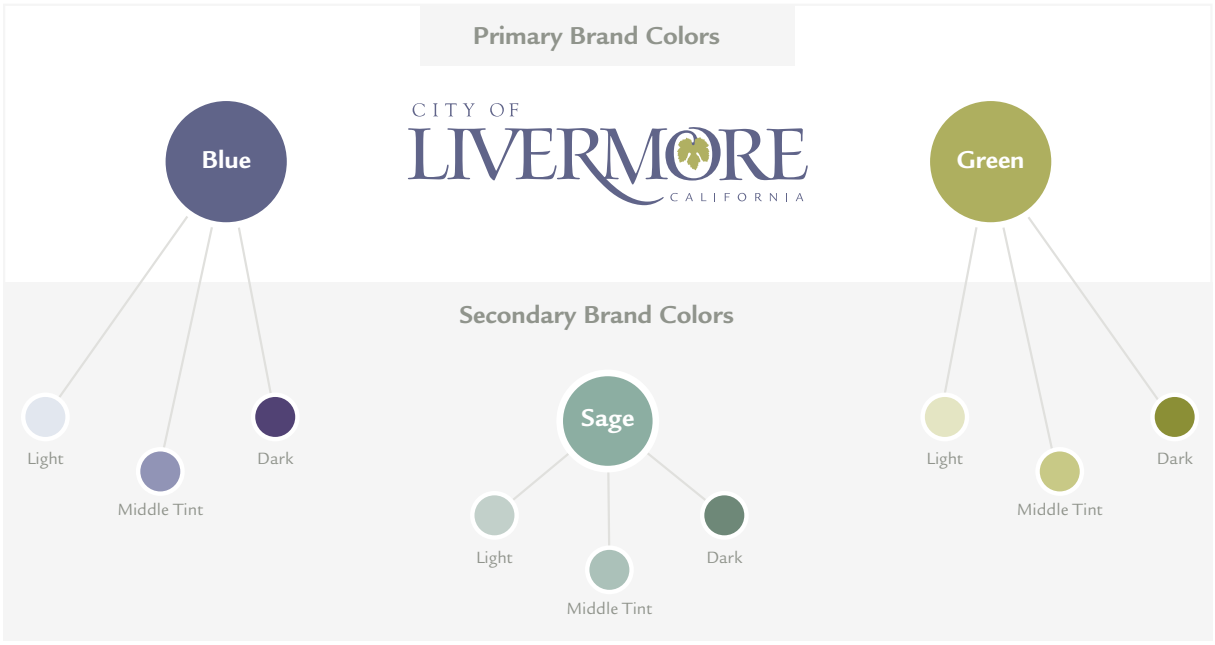
Google alternate to ITC Legacy Sans: Nunito Sans

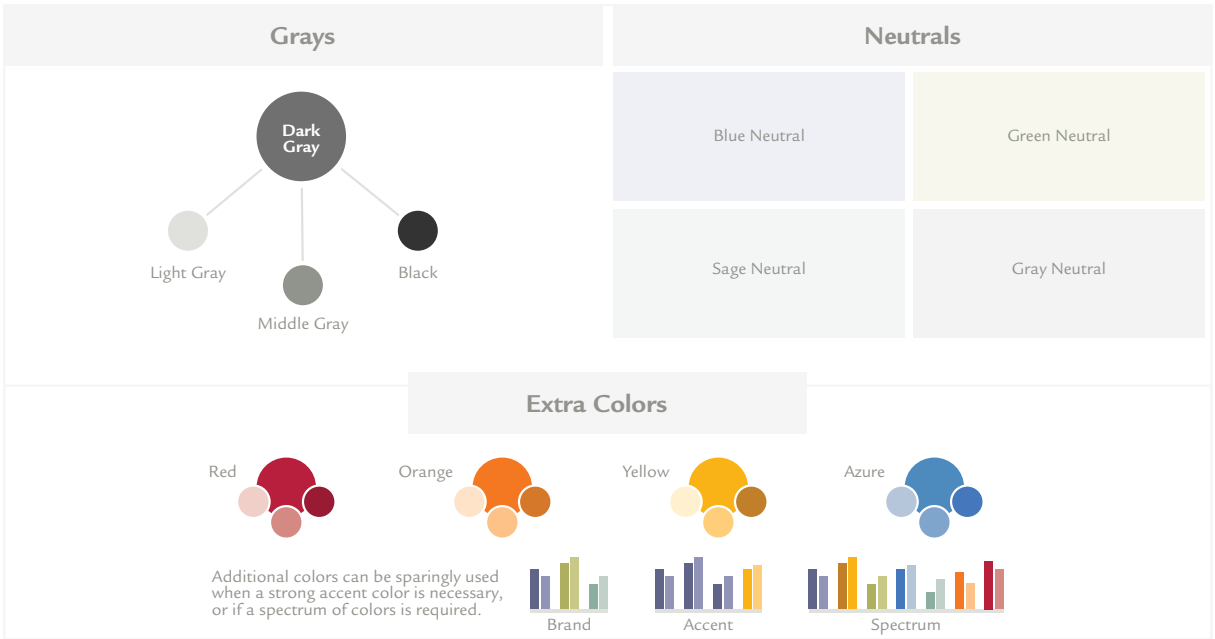
AaBbCcDdEeFfGgHhIiJjKkLlMmNnOoPpQqRrSsTtUuVvWwXxYyZz

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COLOR

The **primary** Blue and Green signify the City's brand. They are the dominant colors and should be used in everything that represents the City. The **secondary** color palette provides the ancillary coloring that all together create the City's identifiable look and feel. The secondary colors are used in addition to the primary Blue and Green, not instead of them. The grays and neutrals identified here provide additional design flexibility. **Extra colors are provided to use sparingly,** when the existing brand colors simply aren't enough (e.g. as an accent when a strong highlight is needed, or when a whole spectrum is required).





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Color Detail

The brand colors are defined here, for several different formats. Digital/web colors are based on RGB or Hex colors. The printing process uses Pantone inks or CMYK (4-color process) inks. PMS code 'C' indicates an ink used for coated (glossy) paper and 'U' indicates is used for non-coated finishes.

WEBSITE COLORS

	HEX	R	G	B
Blue Dark	#4F4174	79	65	116
Green	#A5A837	165	168	55
Sage Dark	#6D8877	109	136	119
Blue Lt	#E2E8F1	226	232	241
Gray Dk	#435148	67	81	72
Gray Mid	#6B737D	107	115	125



Note: website colors are a subset of the Full City Brand Colors selected for online appearance and contrast.

FULL CITY BRAND COLORS

PRIMARY	PROMINENCE	HEX	R	G	B	C	M	Y	K	PANTONE C	PANTONE U
Blue		#606489	96	100	137	70	62	27	6	5275 C	5275 U
Green		#A5A837	165	168	55	35	22	76	0	5845 C	5845 U
SECONDARY											
Sage		#8CAEA2	140	174	162	48	20	38	0	5565 C	5565 U
Sage Dark		#6D8877	109	136	119	60	33	55	8	n/a	n/a
Sage Mid		#ABC1B9	171	193	185	34	14	27	0	50%	50%
Sage Lt		#C2D1CA	194	209	202	24	10	19	0	15%	15%
BLUE SHADE & TINTS											
Blue Dark		#4F4174	79	65	116	79	83	27	12	n/a	n/a
Blue Mid		#9194B6	145	148	182	46	39	13	0	50%	50%
Blue Lt		#E2E8F1	226	232	241	10	6	2	0	15%	15%
GREEN SHADE & TINTS											
Green Dark		#8B8F36	139	143	54	48	31	100	8	n/a	n/a
Green Mid		#C9CA87	201	202	135	23	12	57	0	50%	50%
Green Lt		#E4E5C3	228	229	195	11	4	27	0	15%	15%

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FULL CITY BRAND COLORS (continued)

EXTRA COLORS FOR ACCENT OR FLEXIBILITY

	HEX	R	G	B	C	M	Y	K	PANTONE C	PANTONE U
Red	#B7LF3C	182	31	59	20	100	77	10	1945 C	1935 U
Red Dk	#990D31	153	13	49	12	100	69	23	n/a	n/a
Red Mid	#D48A83	212	138	131	10	50	39	5	50%	50%
Red Lt	#F0CFC9	240	207	201	4	20	15	0	15%	15%
Orange	#F47721	244	119	33	4	54	100	0	152 C	152 U
Orange Dk	#D6782A	214	120	42	15	63	100	0	n/a	n/a
Orange Mid	#FCC288	252	194	136	0	27	50	0	50%	50%
Orange Lt	#FFE4CA	255	228	202	0	11	20	0	15%	15%
Yellow	#FBB416	251	180	22	0	32	100	0	130 C	130 U
Yellow Dk	#C37FL3	195	127	19	7	45	100	30	n/a	n/a
Yellow Mid	#FFCE7B	255	206	123	0	20	60	0	50%	50%
Yellow Lt	#FFEFCF	255	239	207	0	5	20	0	15%	15%
Azure	#4D8BBE	77	139	190	71	37	7	0	285 C	285 U
Azure Dk	#4377BB	67	119	187	77	51	0	0	n/a	n/a
Azure Mid	#80A5CE	128	165	206	50	26	5	0	50%	50%
Azure Lt	#B5C6DC	181	198	220	28	15	5	0	15%	15%

BLACKS, GRAYS & NEUTRALS	HEX	R	G	B	C	M	Y	K	PANTONE C	PANTONE U
Black	#333333	51	51	51	0	0	0	100	PMS Black	PMS Black
Superblack	#000000	0	0	0	60	30	30	100	n/a	n/a
Gray Dk	#435148	67	81	72	70	51	64	38	80%	80%
Gray Mid	#6B737D	107	115	125	61	48	40	11	60%	60%
Gray Lt	#EOEODD	224	224	221	7	5	7	4	8%	8%
Gray Neutral	#F3F3F3	243	243	243	0	0	0	5	5%	5%
Blue Neutral	#F1F3F8	241	243	248	7	5	7	4	10%	10%
Green Neutral	#F1F2E1	241	242	225	0	0	4	4	10%	10%
Sage Neutral	#E0E8E5	224	232	229	n/a				8%	8%

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.4**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing execution of a first amendment to the agreement with Cannon Corporation for programming support during construction of the City of Livermore Water Reclamation Plant Primary and Secondary Treatment Improvements Project No. 2019-31, increasing the not-to-exceed contract amount from $112,900 to $231,026.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute the first amendment to the agreement with Cannon Corporation increasing the not-to-exceed contract amount from $112,900 to $231,026 for additional programming support services during construction of the City of Livermore Water Reclamation Plant (WRP) Primary and Secondary Treatment Improvements, Project No. 2019-31.

SUMMARY

The WRP Primary and Secondary Treatment Improvements Project No. 2019-31 involves rehabilitation and process improvements to the primary and secondary treatment processes at the City of Livermore (City) Water Reclamation Plant (WRP). The existing primary and secondary treatment facilities are monitored and controlled by the WRP supervisory control and data acquisition (SCADA) system. Construction of the improvements to the WRP primary and secondary treatment facilities require integration of these improvements into the existing SCADA system. This first amendment with Cannon Corporation provides for additional programming support services required to facilitate ongoing implementation of the WRP SCADA Master Plan, which requires enhanced standardization of and improvements to SCADA applications. This first amendment in the amount of $118,126 increases the total amount of the professional services agreement from $112,900 to $231,026.

DISCUSSION

Both the 2012 WRP Master Plan and the 2016 WRP Asset Management Plan identify aging infrastructure within the Water Reclamation Plant (WRP) primary and secondary treatment systems. Process improvements are also recommended in the 2012 WRP Master Plan. The WRP Primary and Secondary Treatment Improvements Project No. 2019-31 (project) involves constructing the highest

priority improvements. The areas of proposed improvements are shown on Attachment 1.

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.
- Two motor control centers.

Additional improvements include the following:

- Repairing the concrete and coating channels and tanks in the headworks and primary treatment systems and Secondary Clarifier No. 2.
- Upsizing the odor control treatment system, adding additional odor covers, and increasing ventilation.
- Partial replacement of various electrical boxes throughout the WRP.
- Associated electrical conduit duct, paving, instrumentation, and controls work.

The existing primary and secondary treatment facilities are monitored and controlled by the WRP supervisory control and data acquisition (SCADA) system. Construction of the improvements to the WRP primary and secondary treatment facilities will require integration of these improvements into the existing SCADA system.

On August 3, 2022, the City entered into a professional services agreement with Cannon Corporation to provide programming support to integrate the new equipment into the existing SCADA system during construction of the project. In June 2023, WRP staff identified the Rockwell Automation PlantPAx templates as the required standard to improve SCADA applications, maintain compatibility with existing and future systems, and comply with the guidelines established in the WRP SCADA Master Plan. This first amendment addresses additional programming support services to incorporate these standardized and improved applications required for the SCADA system, in accordance with the WRP SCADA Master Plan. The first amendment in the amount of $118,126 increases the total amount of the professional services agreement from $112,900 to $231,026.

FISCAL AND ADMINISTRATIVE IMPACTS

The budget for the WRP Primary and Secondary Treatment Improvements Project No. 2019-31 in the 2023-2028 5-Year Capital Improvement Plan covers the cost of this first amendment and all other project costs; therefore, no additional appropriations are necessary. Funding is from the Water Resources Replacement Fund 239 and the Sewer Connection Fees Fund 241.

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

GUIDING DOCUMENT

Fiscal Year 2023-2028 5-Year Capital Improvement Plan.

ATTACHMENTS

1. Site Plan
2. Resolution
3. Exhibit A - First Amendment to Agreement with Cannon Corporation

Prepared by: Rick Teczon
Senior Civil Engineer

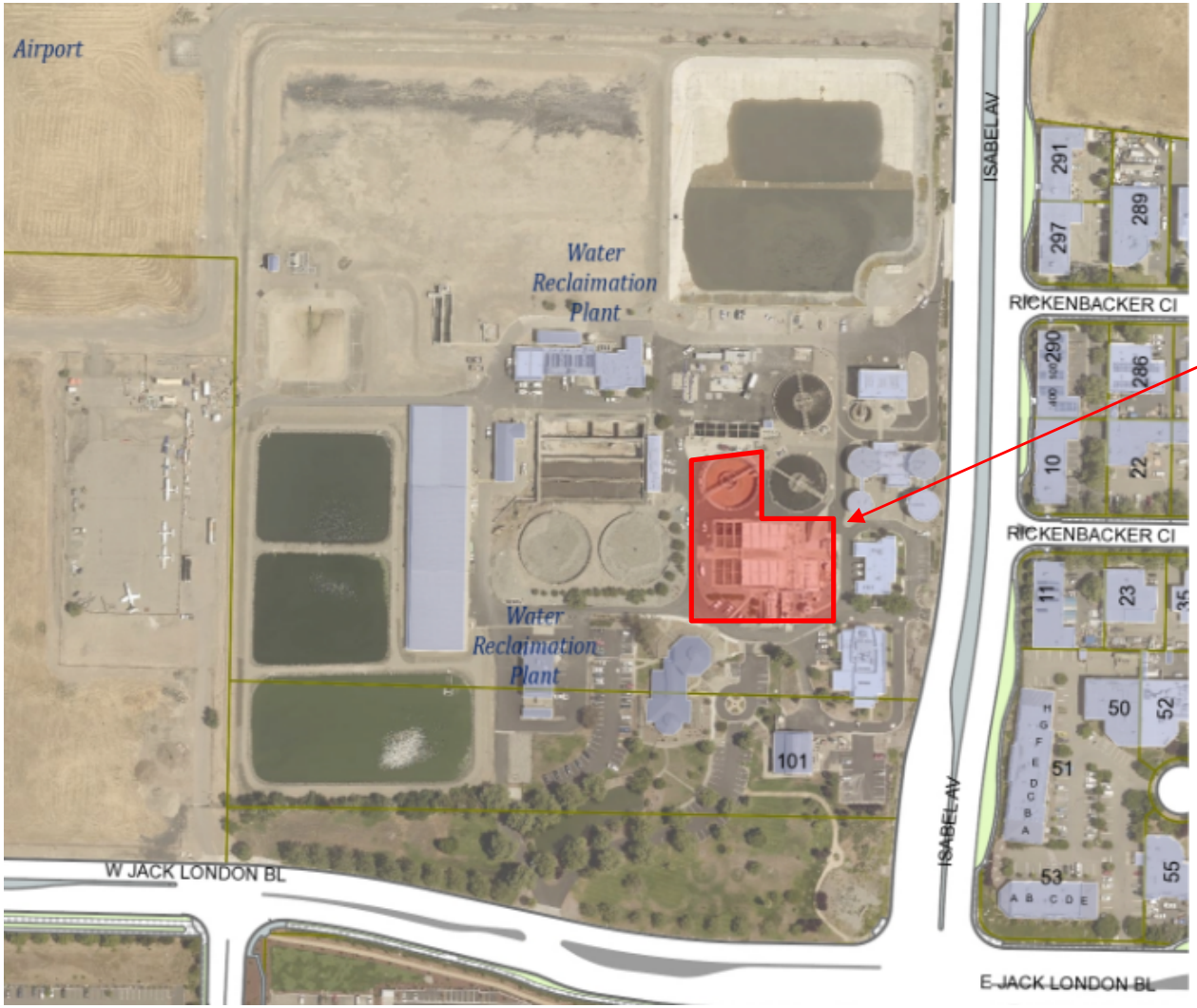
Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

SITE PLAN



Location of Primary and Secondary Improvements

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE AGREEMENT WITH CANNON CORPORATION FOR PROGRAMMING SUPPORT DURING CONSTRUCTION OF THE CITY OF LIVERMORE WATER RECLAMATION PLANT PRIMARY AND SECONDARY TREATMENT IMPROVEMENTS PROJECT, INCREASING THE NOT-TO-EXCEED AMOUNT FROM $112,900 TO $231,026

(WRP PRIMARY AND SECONDARY TREATMENT IMPROVEMENTS PROJECT NO. 2019-31)

On August 3, 2022, the City of Livermore ("City") entered into a professional services agreement with Cannon Corporation to provide programming support during construction of the Water Reclamation Plant ("WRP") Primary and Secondary Treatment Improvements, Project No. 2019-31. This first amendment covers additional programming support services to incorporate standardization and improved applications required for the WRP's supervisory control and data acquisition ("SCADA") system. The first amendment in the amount of $118,126 increases the total amount of the professional services agreement from $112,900 to $231,026.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby authorizes the City Manager to execute the first amendment to the professional services agreement with Cannon Corporation, attached hereto as Exhibit A, increasing the not-to-exceed contract amount from $112,900 to $231,026 for additional programming support services during construction of the WRP Primary and Secondary Treatment Improvements, Project No. 2019-31.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Tara Mazzanti
Tara Mazzanti
Assistant City Attorney

Exhibit A – First Amendment to Agreement with Cannon Corporation

DocuSign Envelope ID: C32E1D79-DAC3-4ECB-A108-5CD30A774F81

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

THIS FIRST AMENDMENT is made and entered into this ____ day of _____, 2023, by and between the City of Livermore ("City"), a municipal corporation, and Cannon Corporation ("Consultant"), a California corporation.

RECITALS

On August 3, 2022, City and Consultant entered into an agreement for Consultant to provide professional PLC/SCADA programming 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 the scope of services and compensation by $118,126. 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:

   Consultant shall provide all necessary labor, materials, equipment, and supplies to integrate SCADA control and monitoring of the City's WRP Primary and Secondary Improvements Project into the existing WRP SCADA network and to implement the Rockwell Automation PlantPAx templates for both PLC and SCADA applications, as more particularly set forth in Exhibit "A" to the Original Agreement and Exhibit "A-1" to this First Amendment (collectively "the Services").

   B. 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 $231,026 ("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** the sum of $112,900.
   2. The compensation payable by the City to the Consultant for the Services required by Exhibit "A-1" to the First Amendment **SHALL NOT EXCEED** the sum of $118,126.

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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 this First Amendment up to the not-to-exceed amount. Except as provided in the body of the 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 Service.

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: **Dated:**

DocuSigned by:
Jeff Spannbauer
1FC538B4F923434...

10/17/2023 | 3:03 PM PDT

Jeff Spannbauer, PE
Director, Automation & Electrical Engineering Division

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Jaia Mazzanti
245F8B35F34G457...

Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
492639AA373F4CA...

Risk Manager/Analyst

Attachments:
Exhibit "A-1" - Additional Scope of Services

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EXHIBIT "A-1"

(Additional Scope of Services)

Consultant shall assist the City with the WRP Primary and Secondary Treatment Improvements project (CIP 2019-31) by providing additional programming services for process and electrical equipment improvements. In particular, ongoing implementation of the WRP SCADA Master Plan has called for more standardization and improved PLC/SCADA applications. This standardization requires implementing the Rockwell Automation PlantPAx version 5 templates for both PLC and SCADA applications.

The Additional Scope of Services will add two tasks for PlantPAx standards and implementation in the form of revised PLC logic using PlantPAx templates for the current project and creation of a new high-performance SCADA system structure using the PlantPAx approach and global objects. A detailed description of the Additional Scope of Services, Compensation, and Schedule follows.

ADDITIONAL SCOPE OF SERVICES:

Consultant shall provide all necessary labor, materials, equipment, and supplies to perform the Additional Scope of Services, which includes the following tasks.

Task 6 – PlantPAx Standards

Consultant shall work closely with the City during this task to identify and refine the PlantPAx selection. Consultant shall reduce the objects used to a subset that best meets the City needs. Consultant shall create documentation that describes and details the standard configuration settings that will be configured on each standard PlantPAx object to create the FactoryTalk View SE application.

Using those templates and objects, Consultant shall develop sample PLC code for PLC-1 and begin development of a new parallel high-performance SCADA application. The new PLC logic shall be tested against the new SCADA application and demonstrated to the City for approval.

Once a working example of the PLC and SCADA applications have been created, Consultant shall conduct a workshop for the City to review and provide feedback. Consultant shall then modify the PLC and SCADA applications to address the City's feedback and host an additional workshop to verify that all concerns have been addressed. It is anticipated that any subsequent modifications will be minor at this point and will be corrected prior to deploying the applications.

The new SCADA application will implement Situation Awareness and gray-scale HMI concepts from ISA 101 and industry standards. These will dovetail with the features and functions of the PlantPAx global objects. A new SCADA application will require configuration of navigation, alarming, trending, and reporting. This task will create the framework for all of those functions in the new application.

Consultant has identified the following list of deliverables for this task:

- Agendas and Project Meeting Minutes.
- Decision Log to memorialize selected PlantPAx objects.
- Preliminary PLC AOIs and UDTs.

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- Preliminary SCADA graphics for global objects.
- Preliminary Software O&M documentation (with PlantPAx object configuration settings for City applications).
- Training for City staff on new PLC logic and SCADA applications.

Task 7 – PlantPAx Implementation

With City approval of the PlantPAx functions identified in Task 6, Consultant shall begin to implement the PLC logic and SCADA application to support the Primary and Secondary Treatment Improvements Project.

- Consultant shall update the PLC-1 code with all the PlantPAx objects.
- Consultant shall take the new SCADA framework and build-out to a new SCADA application.
    - Consultant shall import the existing SCADA system graphics, popups, and functions.
    - Consultant shall create new PlantPAx overviews, objects, and graphics for all processes related to the Primary and Secondary Treatment Improvements Project.
    - Consultant shall create a new plant overview screen that highlights the Key Performance Indicators (KPIs) for operators.
    - Consultant shall standardize alarming and trending in the SCADA interface to be compliant with Master Plan Section 2.5.2 5.
- Consultant shall work with City staff to perform Site Acceptance Testing of the new SCADA application while completing the original tasks from Primary and Secondary Treatment Improvements Project.
- Consultant shall provide training for City staff on new PLC logic and SCADA applications.

Consultant has identified the following list of deliverables for this task:

- Updated PLC software code for PLC-1.
- Updated SCADA application.
- Completed FAT and commissioning test plan checklists.
- Final “As-Built” PLC Software Code, Fully Documented.
- Final Software O&M documentation.
- Training for Operations staff.

Assumptions and Exclusions:

This Additional Scope of Services was based on the following assumptions related to the proposed project:

- As it is currently unclear how to best (partially) transition between the new and older style SCADA graphics (PLC-1 and its SCADA graphics on the newer PlantPAx code while PLC-11 and its SCADA graphics are on the older style code), workshops have been added to the scope to discuss the options and solidify a path forward.
- The PlantPAx PLC and SCADA objects will be implemented for the processes on PLC-1 only. Processes hosted outside of PLC-1 will not receive PlantPAx objects at this time, but will be upgraded in the future via other projects.

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- Consultant shall provide IP addresses to the Contractor for the soft starters and other Ethernet compatible hardware in the MCC. However, configuration of the hardware will be provided by the Contractor per contract documents for their portion of the work.
- PLC-11 will not be upgraded, therefore existing graphics will need to be used for processes associated with the PLC.
- Consultant will only provide training associated with PlantPAx PLC and SCADA software and programming; not any hardware or functions associated with the Contractor's scope of work. This Additional Scope of Services includes up to two 4-hour workshops. If additional training is required, additional fees may be required.
- Compensation does not include overtime or extended hours. If this is requested for efficiency of Contractor work, additional fees may be required.
- During commissioning, should extensive troubleshooting time be required to resolve a situation that is not related to PLC or SCADA programming identified in this Additional Scope of Services, additional fees may be required. Consultant shall notify the City as early as possible should an event like this occur.
- Consultant shall provide support to the Engineer related to Contractor submittals, but will not approve or disapprove any submittals.

COMPENSATION:

City shall compensate Consultant for the services described in the Additional Scope of Services on a time and materials basis with a not to exceed amount of **$118,000**. A detailed breakdown of the estimated cost is included in the following table and rates are included at the end of this Exhibit A-1.

Additional Scope of Services		
Task 6 – PlantPAx Standards	$	41,580
Task 7 – PlantPAx Implementation	$	76,546
Total – Additional Scope of Services	**$**	**118,126**

SCHEDULE:

Consultant shall commence with the Additional Scope of Services upon execution of the amendment to the agreement and will provide the services described in the Scope of Services for the duration of the project or December 31, 2027, whichever occurs first.

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Cannon

2022/2023 Fee Schedule
Bill Rate Ranges
Subject to change

Assistant Resident Engineer	$ 140 - $ 169
Associate Engineer	$ 157 - $ 200
Associate Land Surveyor	$ 185 $ 208
Associate Landscape Architect	$ 158 - $ 177
Automation Specialist	$ 147 - $ 165
Automation Technician	$ 113 - $ 127
CAD Tech	$ 101 - $ 113
CAD Manager	$ 120 - $ 134
Construction Inspector I - III	$ 111 - $ 154
Design Engineer	$ 130 - $ 158
Director/ Department Manager	$ 187 - $ 264
Engineer Tech	$ 108 - $ 121
Engineering Assistant I - II	$ 92 - $ 116
Grant Funding Manager I - II	$ 141 - $ 177
I&E Services Coordinator	$ 103 - $ 116
Information Systems Admin/Manager	$ 120 - $ 134
Land Surveyor	$ 174 - $ 196
Landscape Architect	$ 118 - $ 132
Landscape Designer I - II	$ 103 - $ 127
Lead Automation Specialist	$ 162 - $ 182
Lead Automation Technician	$ 127 - $ 143
Lead Designer	$ 130 - $ 149
Office Engineer / Document Control I-III	$ 107 - $ 140
Plan Check Engineer I - II	$ 123 - $ 165
Planner I - III	$ 113 - $ 143
Planning Assistant	$ 92 - $ 116
Principal Automation Specialist	$ 176 - $ 198
Principal Designer	$ 120 - $ 163
Principal Engineer	$ 185 - $ 244
Project Designer	$ 114 - $ 143
Project Engineer	$ 141 - $ 173
Resident Engineer	$ 179 - $ 201
Sr. Associate Architect	$ 195 $ 219
Sr. Associate Engineer	$ 173 - $ 219
Sr. Automation Specialist	$ 172 - $ 193
Sr. Automation Technician	$ 137 - $ 154
Sr. CAD Tech	$ 109 - $ 122
Sr. Consultant / Principal-in-Charge	$ 249 - $ 297
Sr. Land Surveyor	$ 203 - $ 228
Sr. Landscape Architect	$ 172 - $ 193
Sr. Plan Check Engineer	$ 169 $ 189
Sr. Principal Designer	$ 130 - $ 184
Sr. Principal Engineer	$ 196 - $ 266
Sr. Project Designer	$ 114 - $ 156
Sr. Project Engineer	$ 147 - $ 187
Sr. Resident Engineer	$ 192 - $ 216
Survey Assistant	$ 103 - $ 116
Survey Technician I - V	$ 120 - $ 183
Technical Writer I - IV	$ 92 - $ 116

Survey Crew Rates - Regular	
One-Man Field	$ 195
Two-Man Field	$ 270
Three-Man Field	$ 355
Two-Man - HDS	$ 310

Survey Crew Rates - Prevailing Wage	
One-Man Field	$ 230
Two-Man Field	$ 330
Three-Man Field	$ 470

Electrical - Prevailing Wage	
Electrician	$ 185

Building and Construction Inspector - Prevailing Wage	
BCI Construction Inspector	$ 150

Forensics Engineering / Expert Testimony Fee Schedule Available Upon Request.

Other Direct Charges

Black Line Plots	$2.00 per page	Color Plots	$5.00 per page
Outside Reproduction	Cost + 15%	Travel and Related Subsistence	Cost + 15%
Automation & Electrical Materials	Cost + 25% (+tax)	Standard Mileage Rate	IRS Rate per mile
Subconsultant Fees	Cost + 10%	Airplane Mileage Rate	GSA Rate per mile
Technology Fee	$30/Day		

All expenses, such as special equipment, shipping costs, travel other than by automobile, parking expenses, and permit fees will be billed at the actual cost plus 15%. If the client requests, or the client's schedule requires work to be done on an overtime basis, a multiplier of 1.5 will be applied to the stated rates for weekdays for daily hours in excess of 8 as well as weekends and a multiplier of 2.0 for daily hours in excess of 12 and holidays. If the client requests field services to be provided outside of normal working hours, a multiplier of 1.5 will be applied to the stated rates. For prevailing wage projects, if the client requests field services to be provided on any given Sunday, a multiplier of 2.0 will be applied to the stated rates; on or around an observed holiday, other rates may be applied. Survey Crews and Automation Field staff are billed portal to portal. A minimum charge of 4 hours will be charged for any Automation Field Service calls outside of normal working hours.

The stated rates are subject to change, typically on an annual basis.

1050 Southwood Drive, San Luis Obispo, CA 93401
T 805.544.7407 **F** 805.544.3863
CannonCorp.us

P220132.01
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LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.5**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution authorizing the City Manager to execute a second amendment to the agreement with Raney Planning and Management, Inc. to provide on-call environmental review services, increasing the compensation by $100,000 for a total not-to-exceed contract amount of $300,000 and extending the term to September 27, 2025.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution authorizing the City Manager to execute a second amendment to the agreement with Raney Planning and Management, Inc. to provide on-call environmental review services, increasing the compensation by $100,000 with a not-to-exceed amount of $300,000 and extending the term to September 27, 2025.

SUMMARY

The Planning Division is currently managing several large-scale, multi-year programs including the General Plan Update and Development Code Update as well as a range of other current planning and City projects. The City has also seen an increase in private development applications and expects that trend to continue, particularly in the Isabel Neighborhood Specific Plan area, for the next several years.

The second amendment to the Professional Services Agreement will enable Raney Planning and Management, Inc. (Consultant) to provide on-call environmental review services and to supplement staffing resources for a period of 24 months. The second amendment will increase compensation by $100,000 and revise the not-to-exceed amount to $300,000. The amendment amount of $100,000 would be required to be paid by the City over the two-year term of the agreement and is part of the Fiscal Year 2023-24 budget.

Supplementing staffing resources in the Planning Division for this two-year period will facilitate progress on the City's high-profile programs and complex projects and enable the Planning Division to continue providing high-quality customer service and meet required timelines for processing of private development applications.

DISCUSSION

The Planning Division continues to implement significant multi-year programs, including those to update the City's General Plan and Development Code. In addition to the comprehensive Development Code update, staff continues to develop Code amendments and public handouts to respond to State housing legislation.

The Planning Division is also managing environmental review and technical analyses for various development applications and city-sponsored projects. Project implementation in Downtown also continues to be a priority. At the same time, the Planning Division is seeing significant development interest from property owners in the Isabel Neighborhood Specific Plan (INSP) area following the City's adoption of the INSP in November 2020. The City has received several applications for property in the INSP area and expects more in the coming one to two years. In addition, planning applications continue to be submitted for wireless telecommunication facilities, small-scale industrial warehouses, residential projects, and other projects assigned to the Planning Division.

The proposed Consultant will provide environmental services to support the multi-year planning programs and supplement project staffing on the large volume of private project submittals the City continues to receive. Specifically, the Consultant will provide environmental services such as the preparation of environmental compliance documentation to satisfy requirements of the California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA), Air Quality and Greenhouse Gas Emissions Analyses, Scenic Corridor Analyses, as well as peer review of technical assessments submitted by applicants.

The environmental review services proposed under the second amendment will enable the Planning Division staff to focus internal efforts on priority projects and maintain appropriate levels of customer service in response to the high volume of private project applications the City has been receiving and expects to continue to receive over the next 24 months.

FISCAL AND ADMINISTRATIVE IMPACTS

The second amendment would increase the Professional Services Agreement value by $100,000 with a not-to-exceed contract value of $300,000. The term of this Agreement commenced on September 27, 2019, and is proposed to terminate upon the completion of the Services or September 27, 2025, whichever occurs first. Environmental services provided under this contract amendment for City projects would utilize funds from individual project budgets and would not require additional funding allocations. Environmental services provided for private development projects would be fully funded by the project applicant. Therefore, no additional appropriation is necessary to cover consultant contract costs over the next two fiscal years (2023-24 and 2024-25). Utilization of City staff time will be necessary to administer the consultant agreement and provide supervisory oversight of the Consultant's day-to-day performance.

COMMUNITY PILLAR

3: Environmental Stewardship

GOAL

3: Help the City fulfill its obligations under state and federal environmental regulations, and in response to regulatory oversight

ATTACHMENTS

1. Resolution
2. Exhibit A - Second Amendment with Raney Planning and Management, Inc.

Prepared by: Shannon Pagan
Assistant 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

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH RANEY PLANNING AND MANAGEMENT, INC. TO PROVIDE ON-CALL ENVIRONMENTAL REVIEW SERVICES, INCREASING THE COMPENSATION BY $100,000 FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $300,000, AND EXTENDING THE TERM TO SEPTEMBER 27, 2025

The Planning Division is currently managing several large-scale, multi-year programs including those to update the City's General Plan and Development Code. In addition to the comprehensive Development Code update, City of Livermore (City) staff continues to develop Code amendments and public handouts, and to respond to State housing legislation.

City staff continues to implement the City Council's Downtown Priority with multiple projects in various stages of review, construction, and litigation. Complex development applications in the Isabel Neighborhood Specific Plan area are also on file and in review along with a variety of planning applications for wireless telecommunication facilities, small-scale industrial warehouses, residential projects, and other projects assigned to the Planning Division.

The Planning Division requires a consultant to supplement staff with professional environmental review services to support planning projects.

The proposed Second Amendment with Raney Management and Planning, Inc. would increase compensation by $100,000 for a total not-to-exceed amount of $300,000 and extend the term to September 27, 2025.

The project scope of work includes the provision of environmental services to support planning projects, the multi-year planning programs, and supplement project staffing on the large volume of private project submittals that the City has received and expects to continue to receive over the next 24 months. Specifically, the Consultant will provide environmental services such as the preparation of environmental compliance documentation to satisfy requirements of the California Environmental Quality Act (CEQA) and/or National Environmental Policy Act (NEPA), Air Quality and Greenhouse Gas Emissions Analyses, Scenic Corridor Analyses, as well as peer review of technical assessments submitted by applicants.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore, that:

1. The City Manager is authorized to execute the Second Amendment to the Professional Services Agreement with Raney Planning and Management, Inc. to provide on-call environmental review services to support planning

projects, increasing the compensation by $100,000.00 with a not-to-exceed amount of $300,000.00, and extend the term to September 27, 2025.

2. The term of this Agreement commences on September 27, 2019, and terminates upon the completion of the Services or September 27, 2025, whichever occurs first.

3. Funding for the proposed Second Amendment will utilize funds from individual project budgets for City projects or be fully funded by the project applicant for private development projects. Therefore, no additional appropriation is necessary to cover consultant contract costs over the next two fiscal years (2023-24 and 2024-25).

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Kimberly D. Cilley
Kimberly D. Cilley
Senior Assistant City Attorney

Exhibit A – Agreement with Raney Planning and Management, Inc.

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SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

EXHIBIT A

THIS SECOND AMENDMENT is made and entered into this ____ day of _____, 2023, by and between the City of Livermore ("City"), a municipal corporation, and Raney Planning and Management, Inc ("Consultant"), a California corporation.

RECITALS

On October 4, 2019, City and Consultant entered into an agreement for Consultant to provide professional 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.

On July 1, 2021, the City and Consultant entered into a First Amendment to the Original Agreement to increase the scope of work and compensation by $100,000.00 and extend the term to September 27, 2023 ("First Amendment").

City and Consultant now desire to amend the Original Agreement to increase compensation by $100,000.00 and extend the term to September 27, 2025. 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 is amended as follows:

   A. Section 3 of the Original Agreement is amended to read as follows: Consultant shall provide the following professional services as particularly set forth in Exhibit A to the Original Agreement, Exhibit A-1 to the First Amendment, and Exhibit A-2 to this Second Amendment.

   B. 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 $300,000 ("not to exceed amount").

      The compensation payable by the City to the Consultant for the Services required by Exhibit A to the Original Agreement SHALL NOT EXCEED the sum of $100,000.
      The compensation payable by the City to the Consultant for the Services required by Exhibit A-1 to the First Amendment SHALL NOT EXCEED the sum of $100,000.

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The compensation payable by the City to the Consultant for the Services required by Exhibit A-2 to the Second Amendment SHALL NOT EXCEED the sum of $100,000.

City shall compensate Consultant for the Services rendered at the hourly rates, task amounts or travel expenses as set forth in Exhibit A to the Original Agreement, Exhibit A-1 to the First Amendment, and Exhibit A-2 to the Second Agreement 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.

C. Section 6 of the Original is amended to read as follows:

The term of this Agreement commences on September 27, 2019, and terminates upon the completion of the Services or September 27, 2025, 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 and First Amendment remain in full force and effect.

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.

EXHIBIT A

CONSULTANT: **Dated:**

DocuSigned by:
Nick Pappani
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10/23/2023 | 4:39 PM PDT

Nick Pappani
Vice President

CITY OF LIVERMORE: **Dated:**

Marianna Marysheva
City Manager

APPROVED AS TO FORM:

DocuSigned by:
Kimberly Cilley
6F91ED97FD5B451...

Deputy/Assistant/City Attorney

APPROVED AS TO INSURANCE:

DocuSigned by:
Jas Sidhu
A5F7D34BB6A748A...

Risk Manager/Analyst

Attachments:
Exhibit A-2 Scope of Services andBilling Rate Sheet

Scope of Work

On-Call Environmental Review Services Responsibilities

Raney Planning & Management, Inc. (Raney) will be available to assist the City of Livermore with

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RANEY
PLANNING & MANAGEMENT, INC.

EXHIBIT A
WWW.RANEYMANAGEMENT.COM

NORTHERN CALIFORNIA
1501 SPORTS DRIVE, SUITE A
SACRAMENTO, CA 95834
TEL: 916.372.6100 · FAX: 916.419.6108

the provision of on-call environmental review services. Raney's on-call environmental review services will include, but not be limited to, the following:

- Preparation of California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documentation, including, but not limited to Initial Studies/Negative Declarations (IS/NDs), Initial Studies/Mitigated Negative Declarations (IS/MNDs), Addendums, Environmental Impact Reports (EIRs), and Environmental Assessments (EAs);
- Preparation of Air Quality and Greenhouse Gas (GHG) technical analyses;
- Preparation of Scenic Corridor Analyses;
- Preparation of CEQA-level peer reviews of applicant-provided technical reports;
- Attendance at meetings with staff and the applicant team, as needed; and
- Attendance at Planning Commission and City Council hearings.

Raney will successfully complete environmental review services as assigned by the City. Communication between the City and Raney will be ongoing and prompt regarding all work being performed by Raney at the City's request. Prior to all City assigned services/projects, Raney will provide the City with a project-specific scope of work including the technical scope of services, schedule, and budget. In the event of a contract amendment, Raney will notify the City and the amendment will be submitted and duly authorized in accordance with City Policy and Procedure. Otherwise, it is Raney's responsibility to remain within the term and amount of the contract. If the terms and/or conditions of the contract including the amounts, rates, time and/or duration are exceeded in any way without a fully executed amendment, Raney understands that they may not reimbursed.

Compensation

Compensation for Raney's labor will be based on an hourly rate. Compensation for overhead charges such as technical sub-consultants, travel expenses, and copying/printing will be subject to a 10% administration fee. Travel expenses, if any, and copying and printing will be billed at cost. Raney will submit monthly invoices to the City for labor charges. The invoices will identify the tasks outlined in the project-specific Technical Scope of Services and the percentage completed for each task. The City will then notify Raney if any work product, or invoicing issues arise that may delay payment authorization.

Hourly Rates

Raney's hourly rates are based on the scope and skill sets of Raney's assigned personnel. Raney's *2023 Billing Rates* are outlined on the following page.

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Environmental Review Services 2023 Billing Rates

Tim Raney, AICP, President	$235/hour
Cindy Gnos, AICP, Senior Vice President	$215/hour
Nick Pappani, Vice President	$195/hour
Rod Stinson, Vice President	$195/hour
Angela DaRosa, Division Manager	$175/hour
Kevin Valente, AICP, Senior Associate	$155/hour
Associate	$135/hour
Administrative	$85/hour

Air Quality and GHG Analyses 2023 Billing Rates

Rod Stinson, Air Quality Specialist	$175/hour
Angela DaRosa, Air Quality Specialist	$175/hour
Air Quality Technician	$155/hour

Other Cost Information

- Overhead charges for technical sub-consultants, travel, and copying/printing: 10%
- Travel: Billed at cost
  - It should be noted that Raney charges mileage at the Federal Standard Mileage Rate provided by the IRS.
- Copying and Printing: Billed at cost
  - Black & White (8.5" x 11"): 15¢/per page
  - Color (8.5" x 11"): 30¢/per page
  - Oversized prints (11" x 17"): 30¢/per page

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.6**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Brandon Cardwell, Innovation and Economic Development Director

SUBJECT: Resolution accepting the Livermore Valley Wine Heritage District 2021-2022 Annual Report and the Livermore Valley Wine Heritage District 2022-2023 Annual Report.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution accepting the Livermore Valley Wine Heritage District 2021-2022 Annual Report and the Livermore Valley Wine Heritage District 2022-2023 Annual Report.

SUMMARY

On November 22, 2021, the City of Livermore City Council adopted Resolution No. 2021-198 establishing the Livermore Valley Wine Heritage District (LVWHD). The LVWHD was approved for a five-year term beginning July 1, 2021, and ending on June 30, 2026. At the end of each year of operation, the LVWHD Management District Plan and California Streets & Highways Code section 36650 require the LVWHD to prepare annual reports (except for the first year) of the district's assessments, operations, activities, and expenditures for each fiscal year. The 2021-2022 annual report is the LVWHD's first annual report and was prepared and presented concurrent with the 2022-2023 annual report as set forth in the statute.

Staff recommends the City Council adopt a resolution accepting the annual reports (Attached as Exhibit A and Exhibit B).

DISCUSSION

On November 22, 2021, the City of Livermore City Council adopted Resolution No. 2021-198 (Resolution) establishing the Livermore Valley Wine Heritage District (LVWHD) pursuant to the LVWHD Management District Plan. The LVWHD was approved for a five-year term beginning July 1, 2021, and ending June 30, 2026. The LVWHD Management District Plan explains that even though the 5-year term commences on July 1, 2021, the assessment collection would not begin until January 1, 2022.

The LVWHD is an assessment district which includes all forty-six (46) wineries within the boundaries of

the map shown in Exhibit B of Council Resolution 2021-198. The purpose of the district is to provide specific benefits to payors by funding marketing and sales promotion and protection efforts, which directly benefit the assessed wineries in the district. Assessment revenue shall be used for the following activities, as identified in the Management District Plan (MDP): Marketing and Brand Awareness, Community and Industry Advocacy, Quality Enhancement and Education, and Professional Development & Education. Assessment revenue may not be used for activities that directly benefit wineries outside the LVWHD, provide for improvements outside the LVWHD, or for any other purpose not specified in the Resolution or the MDP.

On January 1, 2022, each winery located within the LVWHD started reporting their gross sales revenue on a quarterly basis in accordance with the provisions of the LVWHD MDP. The assessment rate is two percent of gross sales revenues on direct-to-consumer winery sales. The collection of the assessments was made by the City's consultant Hinderliter De Llamas & Associates (HDL). The LVWHD's total annual revenue was $123,640 for FY 2021-22, and $567,620 for FY 2022-23; collections for FY 2021-22 represent a partial year.

At the end of each year of operation, except for the first year, the LVWHD MDP and California Streets and Highways Code section 36650 requires the LVWHD to prepare annual reports of the district's assessments, operations, activities and expenditure for each fiscal year. As the Owner's Association for the district, the Livermore Valley Winegrowers Association must provide an annual report on activities and expenditures to the City Council. The report shall include the following:

- Any proposed changes in the boundaries of the improvement district or in any benefit zones or classification of businesses within the district
- The improvements and activities to be provided for that fiscal year
- An estimate of the cost of providing the improvements and the activities for that fiscal year
- The method and basis for levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year
- The estimated amount of any surplus or deficit revenues to be carried over from a previous fiscal year
- The estimated amount of any contributions to be made from sources other than assessments levied

In addition to the above listed items required by the statute, the Livermore Valley Wine Heritage District 2021-2022 Annual Report (Exhibit A) and the Livermore Valley Wine Heritage District 2022-2023 Annual Report (Exhibit B) also include information on actual revenues received and how that revenue was used. Both of the reports offer a retrospective view and prospective outlook, as well as an account of operations of the LVWHD in the operational year of 2021-2022 and 2022-2023, respectively.

The City Council receives the LVWHD annual reports as part of the City's role as the Lead Agency for the LVWHD, and the Council may approve the report as filed by the Owners' Association or may modify any particular element contained in the report and approve it as modified. Staff finds that the improvements and activities stated in the reports are consistent with the provisions of the LVWHD Management District Plan. Staff recommends the City Council accept the annual reports.

FISCAL AND ADMINISTRATIVE IMPACTS

The City of Livermore receives a fee equal to two percent (2%) of the amount of the assessment

collected to cover the cost of collection and administration. This fee is used to cover administrative costs, including the costs of engaging HDL.

COMMUNITY PILLAR
2: Economy that prospers

GOAL
2: Diversification/Resilience

ATTACHMENTS

1. Resolution
2. Exhibit A - Livermore Valley Wine Heritage District 2021-2022 Annual Report
3. Exhibit B - Livermore Valley Wine Heritage District 2022-2023 Annual Report

Prepared by: Theresa De La Vega
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 ACCEPTING THE LIVERMORE VALLEY WINE HERITAGE DISTRICT ANNUAL REPORTS FOR 2021-2022 AND 2022-2023

On November 22, 2021, the City Council adopted Resolution No. 2021-198, establishing the Livermore Valley Wine Heritage District (LVWHD) pursuant to the LVWHD Management District Plan. The LVWHD was approved for a five-year term beginning July 1, 2021, and ending on June 30, 2026.

At the end of each year of operation, the LVWHD Management District Plan and California Streets & Highways Code section 36650 require the LVWHD to prepare annual reports (except for the first year) of the district's assessments, operations, activities, and expenditures for each fiscal year. The 2021-2022 annual report is the LVWHD's first annual report and was prepared and presented concurrent with the 2022-23 annual report as set forth in the statute.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that it hereby receives and accepts the Livermore Valley Wine Heritage District Annual Reports for 2021-2022, attached hereto as Exhibit A, and for 2022-2023, attached hereto as Exhibit B.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

Exhibit A - Livermore Valley Wine Heritage District 2021-2022 Annual Report
Exhibit B - Livermore Valley Wine Heritage District 2022-2023 Annual Report



Livermore Valley Wine Heritage District

2021-2022 Annual Report

Submitted to the City of Livermore pursuant to Streets and Highways Code section 36650, for the period from July 1, 2021 - June 30, 2022

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Prepared by
Civitas

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Background

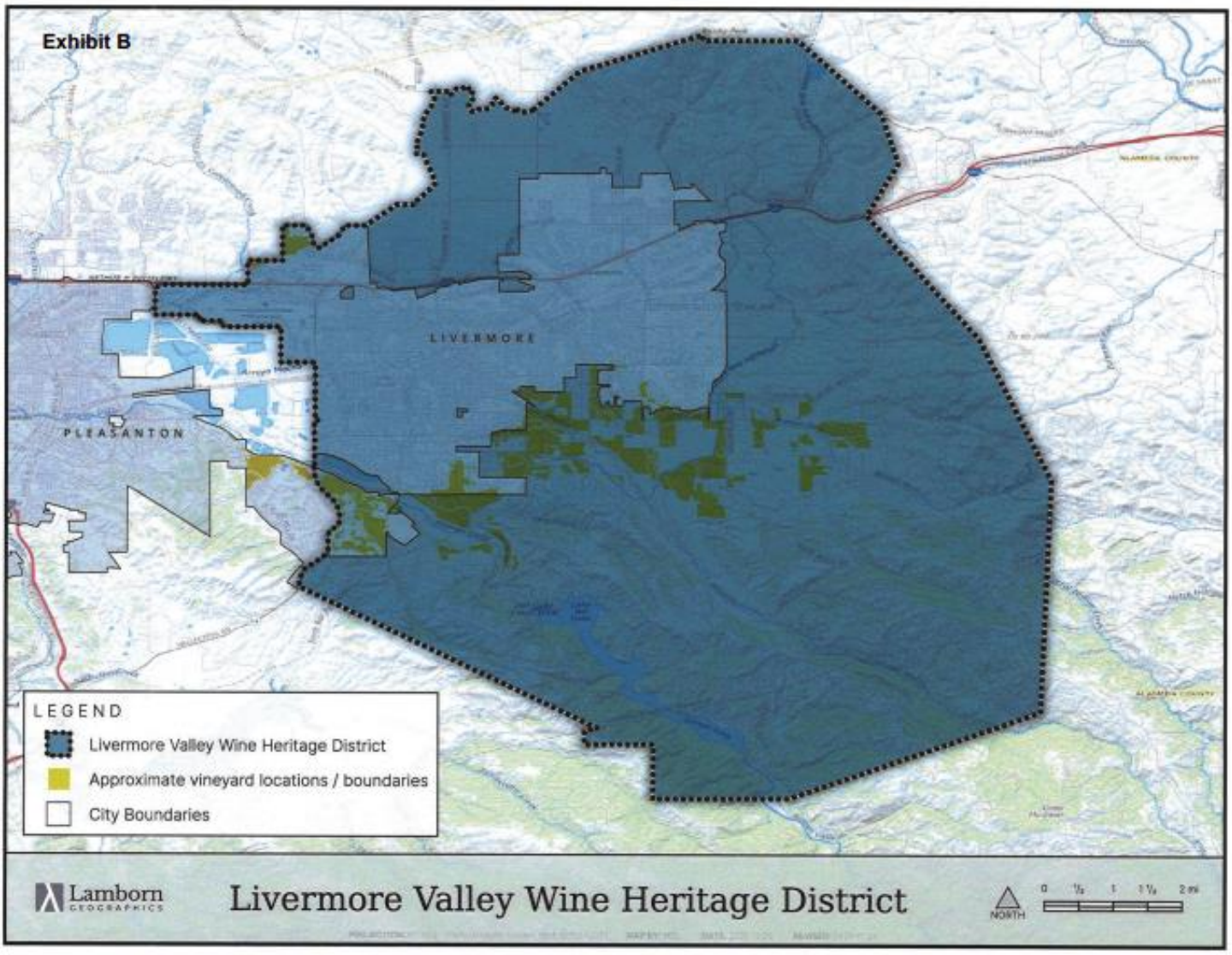
On November 22, 2021, the Livermore City Council approved the establishment of the Livermore Valley Wine Heritage District (LVWHD) and adopted the LVWHD Management District Plan (MDP) by City Council Resolution No. 2021-198 (Resolution of Formation). The LVWHD was approved for a five (5) year term, beginning July 1, 2021 through June 30, 2026.

Due to circumstances of the LVWHD formation process resulting in a delay in collection of assessments, the assessment could not begin until January 1, 2022. The MDP stipulates that although the five (5) year term begins July 1, 2021, the collection of assessments shall start January 1, 2022. The LVWHD term end date of June 30, 2026 is unchanged. At the Livermore City Council hearing held on November 22, 2021, at which the Resolution of Formation was passed, the Livermore City Council reduced the original LVWHD boundaries to be conterminous with the City of Livermore's jurisdiction boundary and portions of the County of Alameda. Therefore, the LVWHD assessment is only collected from the wineries within the reduced boundary. Due to the special circumstances described herein, this particular Annual Report is intended to serve a dual function, encompassing both a retrospective and prospective outlook. Specifically, it shall offer an account of the operations of the LVWHD in the operational year of 2021-2022, while also providing a forward-looking projection of revenue.

Boundaries

There are no proposed changes to the boundaries. There are no changes to assessed businesses.

The LVWHD will continue to include all wineries existing and in the future, within the boundaries of portions of the County of Alameda and the City of Livermore, as shown on the map below. A complete listing of wineries within the LVWHD can be found in the Appendix.



Improvements and Activities

The improvements and activities to be provided for fiscal year 2022-2023 are consistent with the Management District Plan (Plan). The LVWHD has debuted a scholarship program and has begun the early stages of a Sister City program as part of their improvements and activities.

The LVWHD provides specific benefits to payors, by funding Marketing and Brand Awareness; Community and Industry Advocacy; Quality Enhancement and Education; Professional Development and Education Efforts with the goal to advance assessed businesses in the Livermore Valley Wine Country. The LVWHD services are designed to provide targeted benefits directly to assessed businesses and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, or parcels of land, but rather to serve the specific businesses within the LVWHD. The activities described are specifically targeted to increase sales for assessed wineries within the boundaries of the LVWHD, and are narrowly tailored. LVWHD funds will be used exclusively to provide the specific benefit of increased sales revenue directly to the assessees. Assessment funds shall not be used to feature non-assessed wineries in LVWHD programs, or to directly generate sales for non-assessed wineries. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed wineries.

Marketing & Brand Awareness

A brand awareness marketing program will promote the LVWHD as a premium winegrowing region and as a leader in the global wine community. The brand awareness marketing program will have a central theme of promoting the LVWHD as a desirable place to experience Livermore Valley wineries, and as a desirable area to purchase wines and other estate produced products. The program has the goal of increasing demand for visitation to the winegrowing region, retail sales, affinity for LVWHD grapes and wines, and recognition at and for assessed businesses, and may include but is not limited to the following activities:

- Advertising across any and all media channels to promote assessed winery tasting rooms on a local, regional or national level, including but not limited to: digital, print, television, radio and strategic brand partnerships;
- Media Relations – Promoting assessed winery tasting rooms through development of media relations strategies, including but not limited to: media familiarization tours, proactive media pitching and/or influencer relations;
- Digital Marketing – Utilizing paid, earned and owned social media to increase awareness of and engagement with assessed businesses;
- Events – Developing and executing winery focused special events to attract customers to assessed businesses;
- Trade & Industry Engagement – Ensuring representatives are provided the opportunity to attend trade shows, meetings, industry conferences, road

shows, and events to promote assessed businesses; Create programs that engage key trade and industry influencers with the Livermore Valley;
- Print Collateral – Preparing and producing collateral, promotional materials such as brochures, flyers and maps for assessed winery tasting rooms;
- Brand Enhancement – Engage with third party brand development agency to develop brand platform and materials to assist with marketing assessed winery hospitality facilities;
- Consumer Analytics – Identify and leverage consumer demographic, geographic and psychographic data to target messaging that markets Livermore Valley as a premier, unique wine destination to attract customers to assessed winery hospitality facilities; and
- Signage Program – Ensure coordinated local signage for the Livermore Valley wine region.

In 2022, funds were allocated to support critical Marketing & Brand Awareness initiatives. Among these initiatives was a website redesign, which revitalized LVWHD's digital presence, resulting in an enhanced user experience and increased exposure. The purpose of this redesign was to drive business to assessed wineries, showcasing their offerings and attracting a broader audience.

In 2023, the Marketing & Brand Awareness activities are anticipated to include the unveiling of an extensive advertorial campaign encompassing both digital and print platforms, specifically tailored to reach the audience of the South Bay region to attract customers to assessed wineries. Furthermore, significant strides have been taken to bolster marketing efforts by extending an offer to a highly qualified candidate for the position of full-time marketing coordinator. This strategic addition to LVWA's team will bring invaluable expertise to drive LVWHD Marketing & Brand Awareness initiatives to new heights, increasing business sales for assessed wineries. Finally, recognizing the power of press and media influencers, invitations have been extended to over eighteen (18) press and media influencers to visit and share their experiences through print, social and digital platforms to attract business to assessed wineries.

Advocacy – Community & Industry Engagement

Advocacy programs will utilize dedicated time to provide unified attention, communication, and responsiveness throughout the LVWHD. The advocacy program will also include efforts to form relationships and collaborate with local government agencies, as well as community and regional organizations and entities, to provide a unified voice to represent assessed wine tasting facilities' best interests on topics related to economic development, regulations, and planning decisions that impact LVWHD wine tasting facilities, with the goal to advance, promote and protect the Livermore Valley Wine Country. Additionally, advocacy programs will engage and demonstrate leadership in key state and national trade and industry programs and organizations.

In 2022, recognizing the significance of forging connections, the LVWHD dedicated resources to commissioning a comprehensive white paper that explored potential collaborators for the Sister City Collaboration effort.

With reserve funds from 2022 and projected 2023 funding, the LVWHD is well-positioned to complete the Sister City Collaboration. Furthermore, Advocacy – Community & Industry Engagement activities are anticipated to include an intensified marketing campaign, a newly launched scholarship fund, and a robust lineup of engaging community events to drive business to assessed wineries. Engagement at the City, County, and State level also remains a top priority. By actively participating in key decision-making processes and forging strong relationships with government entities, we aim to advocate for the mission of the LVWHD and ensure the collective voice of assessed wineries is heard. Finally, efforts dedicated to supporting the success of LVWA's esteemed partner organizations remains a priority, including TVC, Visit Temecula Valley, Livermore Downtown, Livermore Chamber, and Innovation Tri-Valley.

Quality Enhancement & Education

Educational programs and quality enhancement initiatives will be developed for assessed wine tasting facilities designed to emphasize and enhance excellence and leadership in the industry, with the ultimate goal of increasing visitation, sales, and brand value for local wineries. Such programs are intended to bring increased exposure and prominence to Livermore Valley Wine Country as a world-class winery destination through continued education to amplify exceptional practices of the growing of wine grapes and vinification of wine. The program shall include initiatives to enhance wine quality and secure industry recognition for Livermore Valley Wine Country as a premier winemaking and grape-growing region.

The reserve funds from 2022, coupled with the projected income for 2023, will be strategically allocated towards efforts that highlight the importance of streamlining logistics for assessed wineries. To facilitate this process, the LVWHD is anticipating introducing a dedicated courier service, ensuring that assessed wineries have the necessary resources at their disposal to effortlessly distribute their products. Moreover, the courier system will be utilized for transporting wine samples to reputable laboratories for meticulous testing. This comprehensive analysis will not only ensure the exceptional quality of wines, but also serve as a vital tool in detecting any potential flaws or inconsistencies, further bolstering dedication to delivering high quality product to consumers at assessed wineries.

Professional Development & Education

Programs and training for assessed winery facilities related to winemaking, wine grape growing, sales, hospitality, direct to consumer, marketing, media interviews, business operations and best practices.

In 2022, Professional Development & Education funds were allocated towards hosting a comprehensive CPR & First Aid training session for all assessed wineries

and their staff. To ensure seamless access to available resources, LVWA has also recently onboarded a part-time member relations coordinator. This dedicated professional will serve as a valuable point of contact for our esteemed members, offering guidance, support, and timely information to maximize their engagement and success within our organization.

Looking ahead to 2023, an array of member educational seminars are proposed to empower assessed wineries. These efforts include a Reidel glass seminar, a WISE mystery shopper hospitality program, an informative vineyard series, a media message training seminar, and three member dinners aimed at fostering collaboration and networking within the LVWHD wine community.

Administration and Operations

The administration and operations portion of the budget shall be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees.

A certified public accountant may complete an agreed-upon procedures of the Owners' Association's allocation of LVWHD funds and usage in accordance with the terms and condition of the plan, at the City's discretion. The audit may be performed by the City, or the City may hire an independent audit firm to be paid for by LVWHD.

In addition to general administrative costs as detailed above, a portion of 2022 reserve funds and allocated funds for 2023 will be allocated towards covering the salary of LVWA's Executive Director, ensuring their ongoing dedication and guidance in advancing the mission of the LVWHD.

City Collection Fee

The City of Livermore shall be paid a fee equal to two percent (2%) of the amount of assessment collected to cover its costs of collection and administration.

Contingency / Reserve

The budget includes a contingency line item to account for lower than anticipated assessments. If there are contingency funds collected, they may be held in a reserve fund or utilized for other programs, administration or renewal costs at the discretion of the Owners' Association. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the Owners' Association. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the Owners' Association. The reserve fund may be used for the costs of renewing the LVWHD. In the upcoming year of operation, funds will be paid back to LVWA for the costs of the formation of the LVWHD. Once formation costs are paid back, the funds will be in reserve/contingency fund.

Cost

FY 22/23 Projections

The cost of providing improvements and activities for FY 22/23 is consistent with the Plan. The total estimated assessment budget has increased as a result of improved business conditions. The anticipated total budget for FY 22/23 is $500,000 in anticipated collections and $89,688.10 in carryover from the previous year, for a total budget of $589,688.10. The categorical breakdown is below. All budget category allocations are within the authorized fifteen percent (15%) adjustment of the total budget from the prior year.

Category	% of Budget	FY 21/22 Carry Over	FY 22/23 Estimated Collections	Total FY 22/23 Budget
Marketing & Brand Awareness	35%	$31,390.84	$175,000.00	**$206,390.84**
Quality Enhancement & Education	18%	$16,143.86	$90,000.00	**$106,143.86**
Administration & Operations	15%	$13,453.22	$75,000.00	**$88,453.22**
Advocacy- Community & Industry Engagement	15%	$13,453.22	$75,000.00	**$88,453.22**
Professional Development & Education	10%	$8,968.81	$50,000.00	**$58,968.81**
Contingency/Reserve	5%	$4,484.41	$25,000.00	**$29,484.41**
City Collection Fee	2%	$1,793.76	$10,000.00	**$11,793.76**
Totals	**100.00%**	$89,688.10	$500,000	**$589,688.10**

FY 21/22 Actuals

Based on the initial proposed boundary of the LVWHD, the projected FY 21/22 collections as stated in the LVWHD Management District Plan were $693,000 with $0 in carryover for a total estimated FY 21/22 budget of $693,000. This figure was an estimation based on the minimal available data that was self-reported by wineries proposed to be assessed at the time of formation. The boundary of the LVWHD was subsequently amended during the formation process, resulting in omission of wineries that were originally anticipated to be assessed. Due to this reduction of the boundaries during the formation process and a delay in collection of the assessment resulting in collections beginning in January 2022, actual collections for fiscal year 2021/2022 were less than what was projected in the Management District Plan, totaling $123,640.33. Budgeted and actual expenses are shown below.

Original Budget		
Category	**FY 21/22 Estimated**	
	%	$
Marketing & Brand Awareness	35%	$242,550
Quality Enhancement & Education	18%	$124,740
Administration & Operations	15%	$103,950
Advocacy- Community & Industry Engagement	15%	$103,950
Professional Development & Education	10%	$69,300
Contingency/Reserve	5%	$34,650
City Collection Fee	2%	$13,860
Total Expenditures	**100%**	$693,000

	Budget (Based on Actual Collections)	Actual	Variance
Revenue	**$123,640.33**	**$123,640.33**	**$0**
Expenditures:			
Marketing & Brand Awareness (35%)	$43,274.12	$20,000.00	$23,274.12
Quality Enhancement & Education (18%)	$22,255.26	$0	$22,255.26
Administration & Operations (15%)	$18,546.05	$11,486.60	$7,059.45
Advocacy- Community & Industry Engagement (15%)	$18,546.05	$0	$18,546.05
Professional Development & Education (10%)	$12,364.03	$0	$12,364.03
Contingency/Reserve (5%)	$6,189.19	$0	$6,189.19
City Collection Fee (2%)	$2,465.63	$2,465.63	$0.00
Total Expenditures	$123,640.33	$33,952.23	$89,688.10

The revenue figures are sourced from HdL, while the expense numbers come from LVWHD. All figures are unaudited.

Assessment

There is no change in the method and basis of levying the assessment.

Assessment Rate

The annual assessment rate is two percent (2%) of gross direct-to-consumer sales revenue of assessed wineries. Based on the benefit received, assessments will not be collected on purchases made outside of the state of California or purchases made pursuant to contracts executed prior to January 1, 2022. Revenue generated from the LVWHD is intended only to provide programs and services for assessed businesses, all of which are located in California. Sales made outside of the state of California are not subject to assessment due to a lack of benefit. Assessment dollars will not be spent on any programs or activities to benefit individual winery businesses outside of the state of California. Assessment dollars may be spent outside of California to elevate the notoriety of the Livermore Valley as a premier winery destination with the desired outcome of increased in-person visitation to business paying the assessment.

The term "gross sales revenue" as used herein means: the consideration charged by wineries, for all direct-to-consumer sales of wine, wine club shipments (whether shipped or picked up), ticket sales, tasting fees, tours and private and public special events, merchandise, prepared and packaged foods for on-premise or off-premise consumption (whether sold in a tasting room or a stand-alone restaurant on-premise), orders placed via telemarketing, telephone, online, email, whether carried out at the time of purchase, shipped or picked up at a later date (pre-sales). Gross sales revenue shall not include any federal, state or local taxes collected, including but not limited to sales and use taxes.

The assessment is levied upon and a direct obligation of the assessed winery. However, the assessed winery may, at its discretion, pass the assessment on to customers. The amount of assessment, if passed on to each customer, shall be disclosed in advance and separately stated from the amount charged and any other applicable taxes, and each customer shall receive a receipt for payment from the business. If the LVWHD assessment is identified separately it shall be disclosed as the "LVWHD Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed winery even if it is passed on to customers. The California Department of Tax and Fee Administration (CDTFA) issued a written opinion that state sales tax applies to the revenue generated from Business Improvement District assessments on items where state sales tax is levied. In light of CDTFA's opinion, businesses that pay both state sales tax and LVWHD assessments on sales are advised to collect sales tax on the assessment revenue.

Bonds shall not be issued.

Time and Manner for Collecting Assessments

The LVWHD assessment will be implemented beginning January 1, 2022 and continuing for four and a half (4.5) years to end on June 30, 2026. The City of

Livermore or a third-party collection agency will be responsible for collecting the assessment on a quarterly basis (including any delinquencies, penalties and interest) from each winery located in each jurisdiction within the LVWHD. The City or a third-party collection agency shall take all reasonable efforts to collect the assessments from each winery. The City or a third-party collection agency shall forward the assessments collected to the Owners' Association.

Penalties and Interest

The LVWHD shall reimburse the City of Livermore (City) for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent LVWHD assessment are sought to be recovered in the same collection action by the City, the LVWHD shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. ***Original Delinquency***
   Any winery that fails to remit any assessment imposed by this section within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the assessment.
2. ***Continued Delinquency***
   Any winery that fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the assessment in addition to the assessment and the ten percent (10%) penalty first imposed.
3. ***Fraud***
   If the City or third-party collection agency determines that the nonpayment of any remittance due under this article is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in paragraph one (1) and two (2) above of this section.
4. ***Interest***
   In addition to the penalties imposed, any winery who fails to remit any assessment imposed by this section shall pay interest at the rate of one-quarter of one percent (0.25%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Surplus and Other Funding

Surplus

There will be $89,688.10 from the previous year carried over into 2022/2023.

Other Funding

Outside funding in the amount of $10,000 is estimated to be contributed from event income in 2022/2023.

Appendix – Assessed Businesses

3 STEVES WINERY	ALMOST FAMOUS WINE COMPANY
ARROYO CELLARS	BECK FAMILY VINEYARDS
BENT CREEK WINERY	BIG WHITE HOUSE LLC
BOAVENTURA DE CAIRES WINERY	CADDIS
CEDAR MOUNTAIN WINERY INC	CHARLES R VINEYARDS
CHATEAU BELLEVUE	CONCANNON VINEYARDS
CROOKED VINE / STONY RIDGE	CUDA RIDGE WINES LLC
DANTE ROBERE VINEYARDS	DEL SOL VINEYARDS LLC
DEL VALLE WINERY	EAGLE RIDGE VINEYARD
EHRENBERG CELLARS	ENOTECA FIVE
FAVALORA VINEYARDS & WINERY, INC	FENESTRA WINERY
GARRE VINEYARD & WINERY	MITCHELL KATZ
LAS POSITAS VINEYARDS	LEISURE STREET WINERY
LONGEVITY WINES	MADISON VINEYARDS INC.
MCGRAIL VINEYARDS AND WINERY	MURRIETAS WELL
NOTTINGHAM CELLARS	OCCASIO WINERY
OMEGA ROAD WINERY & CELLARS	PAGE MILL WINERY LLC
PAT PAULSEN VINEYARDS	PRUETT FARMS
RETZLAFF VINEYARDS	RIOS LOVELL WINERY
RODRIGUE MOLYNEAUX WINERY	ROSA FIERRO CELLARS
STEVEN KENT WINERY THE	TENUTA VINEYARD
TESLA VINTERS	WENTE VINEYARDS
WOOD FAMILY VINEYARDS	

* The list was developed with the most reliable information provided; however, the list may contain discrepancies. This list shall include any future to-be opened businesses. Any business that may have been missed in this list, but is still within the boundaries of the LVWHD, shall also be subject to assessment.



Livermore Valley Wine Heritage District

2022-2023 Annual Report

Submitted to the City of Livermore pursuant to Streets and Highways Code section 36650, for the period from July 1, 2022 - June 30, 2023

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Prepared by
Civitas

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(800)999-7781
civitasadvisors.com

Background

On November 22, 2021, the Livermore City Council approved the establishment of the Livermore Valley Wine Heritage District (LVWHD) and adopted the LVWHD Management District Plan (MDP) by City Council Resolution No. 2021-198 (Resolution of Formation). The LVWHD was approved for a five (5) year term, beginning July 1, 2021 through June 30, 2026.

Due to circumstances of the LVWHD formation process resulting in a delay in collection of assessments, the assessment could not begin until January 1, 2022. The MDP stipulates that although the five (5) year term begins July 1, 2021, the collection of assessments shall start January 1, 2022. The LVWHD term end date of June 30, 2026 is unchanged. During the Livermore City Council hearing held on November 22, 2021, at which the Resolution of Formation was passed, the Livermore City Council reduced the original LVWHD boundaries to be conterminous with the City of Livermore's jurisdiction boundary and portions of the County of Alameda. Therefore, the LVWHD assessment is only collected from the wineries within the reduced boundary. Due to the special circumstances described herein, this particular Annual Report is intended to serve a dual function, encompassing both a retrospective and prospective outlook. Specifically, it shall offer an account of the operations of the LVWHD in the operational year of 2022-2023, while also providing a forward-looking projection of revenue.

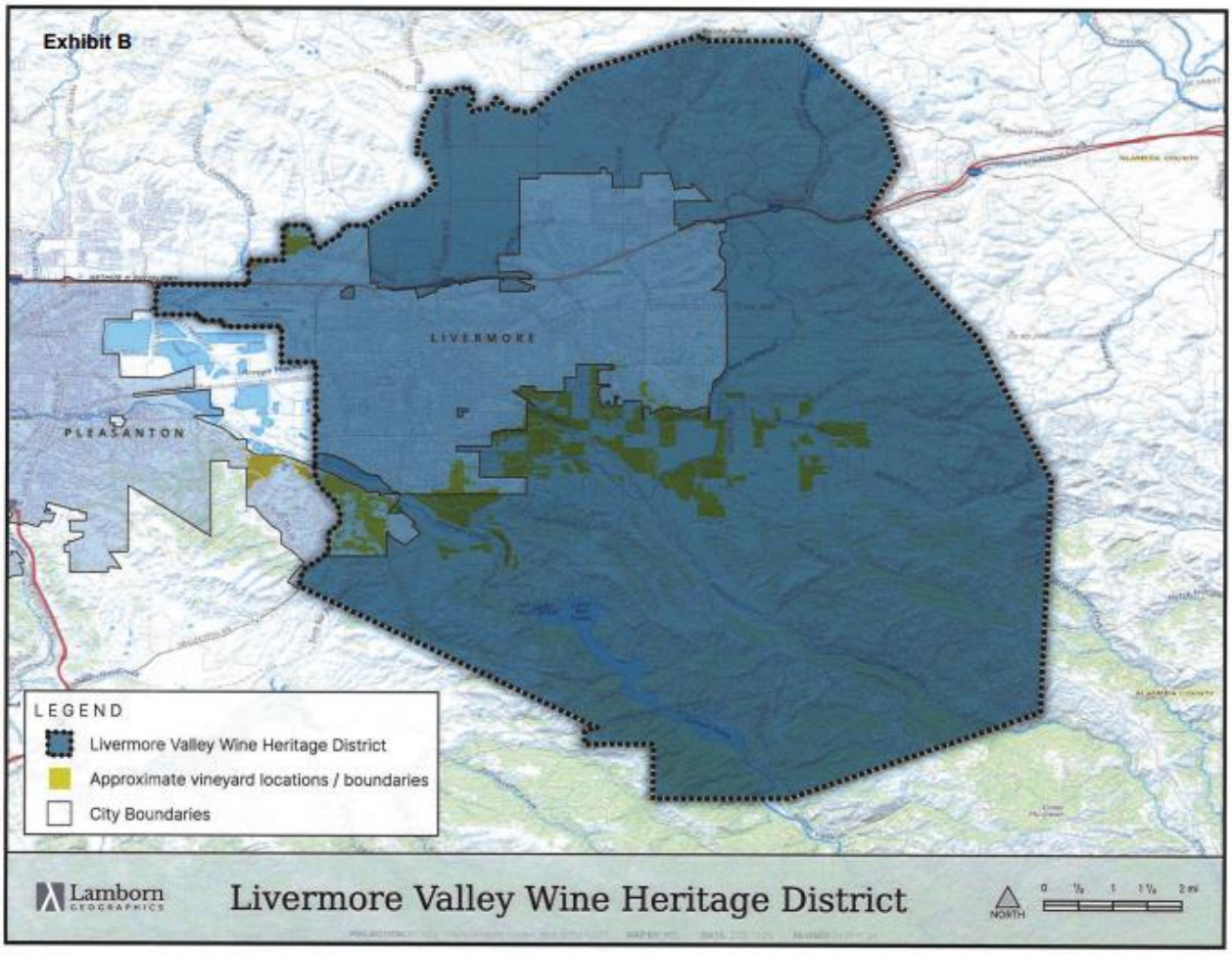
Boundaries

There are no proposed changes to the boundaries. One (1) new winery business has opened and one (1) winery business has closed:

New business: Sakura Winery- 5556 Mines Rd, Livermore, CA 94550

Closed business: Eagle Ridge Vineyard- 10017 Tesla Rd, Livermore, CA 94550

The LVWHD will continue to include all wineries existing and in the future, within the boundaries of portions of the County of Alameda and the City of Livermore, as shown on the map below. A complete listing of wineries within the LVWHD can be found in the Appendix.



Improvements and Activities

The improvements and activities to be provided for fiscal year 2023-2024 are consistent with the Management District Plan (Plan). The LVWHD has launched a scholarship program and a profiler program as part of their improvements and activities.

The LVWHD provides specific benefits to payors, by funding Marketing and Brand Awareness; Community and Industry Advocacy; Quality Enhancement and Education; Professional Development and Education Efforts with the goal of advancing assessed businesses in the Livermore Valley Wine Country. The LVWHD services are designed to provide targeted benefits directly to assessed businesses and are intended only to provide benefits and services directly to those businesses paying the assessment. These services are tailored not to serve the general public, businesses in general, nor parcels of land, but rather to serve the specific assessed businesses within the LVWHD. The activities described are specifically targeted to increase sales for assessed wineries within the boundaries of the LVWHD, and are narrowly tailored. LVWHD funds will be used exclusively to provide the specific benefit of increased sales revenue directly to the assessees. Assessment funds shall not be used to feature non-assessed wineries in LVWHD programs, nor to directly generate sales for non-assessed wineries. The activities paid for from assessment revenues are business services constituting and providing specific benefits to the assessed wineries.

Marketing & Brand Awareness

A brand awareness marketing program will continue to promote the LVWHD as a premium winegrowing region and as a leader in the global wine community. The brand awareness marketing program will have a central theme of promoting the LVWHD as a desirable place to experience Livermore Valley wineries, and as a desirable area to purchase wines and other estate produced products. The program has the goal of increasing demand for visitation to the winegrowing region, retail sales, affinity for LVWHD grapes and wines, and recognition at and for assessed businesses, and may include but is not limited to the following activities:

- Advertising across any and all media channels to promote assessed winery tasting rooms on a local, regional or national level, including but not limited to: digital, print, television, radio and strategic brand partnerships;
- Media Relations – Promoting assessed winery tasting rooms through development of media relations strategies, including but not limited to: media familiarization tours, proactive media pitching and/or influencer relations;
- Digital Marketing – Utilizing paid, earned and owned social media to increase awareness of and engagement with assessed businesses;
- Events – Developing and executing winery focused special events to attract customers to assessed businesses;
- Trade & Industry Engagement – Ensuring representatives are provided the opportunity to attend trade shows, meetings, industry conferences, road

shows, and events to promote assessed businesses; Create programs that engage key trade and industry influencers with the Livermore Valley;
- Print Collateral – Preparing and producing collateral, promotional materials such as brochures, flyers and maps for assessed winery tasting rooms;
- Brand Enhancement – Engage with third party brand development agency to develop brand platform and materials to assist with marketing assessed winery hospitality facilities;
- Consumer Analytics – Identify and leverage consumer demographic, geographic and psychographic data to target messaging that markets Livermore Valley as a premier, unique wine destination to attract customers to assessed winery hospitality facilities; and
- Signage Program – Ensure coordinated local signage for the Livermore Valley wine region.

In 2023, the Marketing & Brand Awareness activities included the unveiling of an extensive advertorial campaign encompassing both digital and print platforms, specifically tailored to reach the audience of the South Bay region to attract customers to assessed wineries. Furthermore, a full-time marketing coordinator was hired, bringing invaluable expertise to drive LVWHD Marketing & Brand Awareness initiatives to new heights, to increase demand for business sales for assessed wineries. Finally, recognizing the power of press and media influencers, invitations were extended to over eighteen (18) press and media influencers to visit and share their experiences through print, social and digital platforms to attract business to assessed wineries.

In 2024, Livermore Valley Winegrowers Association (LVWA) is embarking on new advertising collaborations with local sports franchises. A total of twenty-eight (28) press trips are planned to facilitate media and influencer visits, strengthening the LVWA's brand presence to drive business to assessed wineries. The "Profiles" campaign continues into 2024, and LVWA is gearing up for high-profile off-site pourings at locations like the Best of the Bay and Santana Row, as well as continuing multi-city wine strolls. These endeavors collectively underscore LVWA's commitment to expanding brand recognition and engagement in the year ahead, and contribute to anticipated ongoing monthly growth in social media advertising campaigns.

Advertising:
LVWA executed an extensive digital advertising campaign across various platforms, including Patch, 7x7, Hearst (specifically SFGate), Mercury Times, Modern Luxury Media, and Alpha Media. LVWA also utilized internet display ads and retargeting ads. Additionally, LVWA embraced traditional print advertising in esteemed publications such as Napa Valley Life, Pleasanton Weekly, Diablo Magazine, Modern Luxury Silicon Valley, Modern Luxury San Francisco Magazine, Modern Luxury's Silicon Valley Annual Guide, and CA Travel Guide. Furthermore, LVWA engaged in advertorials on Story Studio with SFGate, Mercury News, Modern Luxury, and 7x7, with several resulting in printed editorials.

Media Relations:
LVWA's media relations efforts achieved remarkable success, featuring prominent media figures such as Brianne Cohen, Stacy Briscoe, Kelly Magyarics, Mary Orlin, Mary Babbit from Sip, Sip, Hooray Podcast, Kate Dingwall, Nicole MacKay, and Ray Fister from Wine Between the Vines Podcast. This outreach generated extensive coverage in prestigious publications such as MAXIM, Forbes, Modern Luxury, Wine Enthusiast, Edible East Bay, Best Wineries, SOMM TV, and The Vintner Project. Additionally, LVWA hosted a live tasting session on YouTube, Instagram, and Twitter, resulting in numerous articles published on over a dozen blogs.

In collaboration with Visit Tri-Valley, LVWA organized a press trip that led to articles in various publications and featured stories on social media platforms, including The Brooke Blend and numerous social media reels.

Social Media:
LVWA's comprehensive social media strategy included paid ads, retargeting efforts, heightened social engagement, and expanding our follower base and engagement levels through collaboration with a marketing agency.

Events:
In 2022, LVWA successfully hosted Taste Our Terroir and rebranded this premier wine event as "TASTE: The Livermore Valley Wine Experience" for 2023. Additionally, LVWA actively promoted other collaborative events, resulting in significant website traffic on lvwine.org. LVWA also hosted a very successful Holidays in the Vineyards in December.

Trade & Industry:
LVWA actively participated in multiple offsite pouring opportunities and coordinated similar events for wineries in our region, including the Los Gatos Wine Stroll and Safeway Livermore Valley Week, along with many others in the South Bay area and the Greater Bay Area.

Print Collateral:
LVWA's wine maps and brochures were updated for rebranding, and a Profile Campaign featured posters of winemakers from various renowned wineries, to be displayed onsite and used in media. The following Profiles have been completed: McGrail Vineyards & Winery, Cuda Ridge Wines, Rosa Fierro Cellars, Concannon Vineyard, Darcie Kent Estate Winery, and Wente Vineyard.

Brand Enhancement:
To enhance marketing efforts, LVWA hired a full-time marketing coordinator, and the marketing committee convenes monthly to analyze campaign metrics, ensuring alignment with our target demographics and making strategic adjustments as needed. Additionally, LVWA collaborated closely with media partners to precisely target ads toward our intended audience.

Signage Program:
LVWA strengthened its signage program by designing and installing new winery signs throughout the valley, facilitating clear navigation for visitors to locate our wineries.

Advocacy – Community & Industry Engagement

Advocacy programs will continue to utilize dedicated time to provide unified attention, communication, and responsiveness throughout the LVWHD. The advocacy program will also include efforts to form relationships and collaborate with local government agencies, as well as community and regional organizations and entities, to provide a unified voice to represent assessed wine tasting facilities' best interests on topics related to economic development, regulations, and planning decisions that impact LVWHD wine tasting facilities, with the goal to advance, promote and protect the Livermore Valley Wine Country. Additionally, advocacy programs will continue to engage and demonstrate leadership in key state and national trade and industry programs and organizations.

With reserve funds from 2022 and 2023 funding, the LVWHD completed the Sister City Collaboration. Furthermore, Advocacy – Community & Industry Engagement activities included an intensified marketing campaign, the launch of a scholarship fund. A robust lineup of engaging community events to drive business to assessed wineries was also implemented. Furthermore, LVWA remained dedicated to invaluable partnerships with Tri-Valley Conservancy (TVC), Visit Temecula Valley, Livermore Downtown, Livermore Chamber, and Innovation Tri-Valley.

In 2024, a continued commitment to engagement at the City, County, and State level will remain a top priority. LVWA endeavored to participate in key decision-making processes and forging strong relationships with government entities, with the aim to advocate for the mission of the LVWHD and ensure that the collective voice of assessed wineries is heard. Furthermore, the Sister City and scholarship programs will continue. Partnerships with Visit Tri-Valley, Innovations Tri-Valley, Livermore Chamber of Commerce, City of Livermore, Alameda County, Livermore Downtown and TVC will continue into 2024, including the continued growth of the Agritourism Committee.

Quality Enhancement & Education

Educational programs and quality enhancement initiatives will continue to be developed for assessed wine tasting facilities designed to emphasize and enhance excellence and leadership in the industry, with the ultimate goal of increasing visitation, sales, and brand value for local wineries. Such programs are intended to bring increased exposure and prominence to Livermore Valley Wine Country as a world-class winery destination through continued education to amplify exceptional practices of the growing of wine grapes and vinification of wine. The program shall continue to include initiatives to enhance wine quality and secure industry recognition for Livermore Valley Wine Country as a premier winemaking and grape-growing region.

The reserve funds from 2022, coupled with the projected income for 2023, was allocated towards efforts that highlight the importance of streamlining logistics for assessed wineries. To facilitate this process, the LVWHD introduced a dedicated courier service, ensuring that assessed wineries have the necessary resources at their disposal to effortlessly distribute their products. The courier system has been utilized for transporting wine samples to reputable laboratories for testing to not only ensure the exceptional quality of wines, but also serve as a vital tool in detecting any potential flaws or inconsistencies, further bolstering dedication to delivering high quality product to consumers at assessed wineries.

In 2024, LVWA will continue to collaborate with TVC and Wine Quality Alliance (WQA) to curate engaging experiences that spotlight the exceptional quality of wines within specific geo-targeted areas in the South Bay and Peninsula to drive business to assessed wineries. The successful completion of the "Mapping the Vineyards Project" marks a milestone in LVWA's ongoing efforts to enhance the LVWHD wine community. LVWA will introduce a new classified section on the website for the sale of grapes and equipment. Furthermore, LVWA is endeavoring pursuit of a new partnership with local laboratory Aemtek, aimed at providing LVWHD members with discounted testing services, ensuring the quality and integrity of LVWHD wines from vine to bottle.

Professional Development & Education

Programs and training will be continued for assessed winery facilities related to winemaking, wine grape growing, sales, hospitality, direct to consumer, marketing, media interviews, business operations and best practices.

In 2023, an array of member educational seminars were proposed and implemented to empower assessed wineries. These efforts included a Reidel glass seminar, a Wine Industry Sales Education (WISE) mystery shopper hospitality program, an informative vineyard series, a media message training seminar, and three member dinners aimed at fostering collaboration and networking within the LVWHD wine community.

In 2024, educational seminars will continue to be an area of focus.

Administration and Operations

The administration and operations portion of the budget shall continue to be utilized for administrative staffing costs, office costs, advocacy, and other general administrative costs such as insurance, legal, and accounting fees.

A certified public accountant may complete an agreed-upon procedures of the Owners' Association's allocation of LVWHD funds and usage in accordance with the terms and condition of the plan, at the City's discretion. The audit may be performed by the City, or the City may hire an independent audit firm to be paid for by LVWHD.

A portion of 2022 reserve funds and allocated funds for 2023 were allocated towards covering the salary of LVWA's Executive Director, ensuring their ongoing dedication and guidance in advancing the mission of the LVWHD.

City Collection Fee

The City of Livermore shall continue to be paid a fee equal to two percent (2%) of the amount of assessment collected to cover its costs of collection and administration.

Contingency / Reserve

The budget includes a contingency line item to account for lower than anticipated assessments. If there are contingency funds collected, they may be held in a reserve fund or utilized for other programs, administration or renewal costs at the discretion of the Owners' Association. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the Owners' Association. Contingency/reserve funds may be spent on District programs or administrative and renewal costs in such proportions as determined by the Owners' Association. The reserve fund may be used for the costs of renewing the LVWHD. In the upcoming year of operation, funds will be paid back to LVWA for the costs of the formation of the LVWHD. Once formation costs are paid back, the funds will be in reserve/contingency fund.

Cost

FY 23/24 Projections

The cost of providing improvements and activities for FY 23/24 is consistent with the Plan. The total estimated assessment budget has increased as a result of improved business conditions. The anticipated total budget for FY 23/24 is $600,000 in anticipated collections and $137,064 in carryover from previous years, for a total budget of $737,064. The categorical breakdown is below. All budget category allocations are within the authorized fifteen percent (15%) adjustment of the total budget from the prior year.

Category	**% of Budget**	**Carry Over**	**FY 23/24 Estimated Collections**	**Total FY 23/24 Budget**
Marketing & Brand Awareness	35%	$47,972.40	$210,000	$ 257,972.40
Quality Enhancement & Education	18%	$24,671.52	$108,000	$ 132,671.52
Administration & Operations	15%	$20,559.60	$90,000	$110,559.60
Advocacy- Community & Industry Engagement	15%	$20,559.60	$90,000	$ 110,559.60
Professional Development & Education	10%	$13,706.40	$60,000	$ 73,706.40
Contingency/Reserve	5%	$6,853.20	$30,000	$ 36,853.20
City Collection Fee	2%	$2,741.28	$12,000	$ 14,741.28
Totals	**100.00%**	**$ 137,064**	**$600,000**	**$ 737,064**

FY 22/23 Actuals

The projected FY 22/23 collections were $500,000. Actual collections were more than anticipated, totaling $567,620. Budgeted and actual expenses are shown below.

Original Budget		
Category	**FY 22/23 Estimated**	
	%	$
Marketing & Brand Awareness	35%	$175,000
Quality Enhancement & Education	18%	$90,000
Administration & Operations	15%	$75,000
Advocacy- Community & Industry Engagement	15%	$75,000
Professional Development & Education	10%	$50,000
Contingency/Reserve	5%	$25,000
City Collection Fee	2%	$10,000
Total Expenditures	**100%**	$500,000

	Budget (Based on Actual Collections)	Actual	Variance
Revenue	**$567,620**	**$567,620**	**$0**
Expenditures:			
Marketing & Brand Awareness (35%)	$198,667	$187,858.36	$10,808.64
Quality Enhancement & Education (18%)	$102,172	$91,491.24	$10,680.76
Administration & Operations (15%)	$85,143	$77,056.76	$8,086.24
Advocacy- Community & Industry Engagement (15%)	$85,143	$76,242.66	$8,900.34
Professional Development & Education (10%)	$56,762	$50,828.45	$5,933.55
Contingency/Reserve (5%)	$28,381	$25,414.22	$2,966.78
City Collection Fee (2%)	$11,352	$11,352.41	($0.41)
Total Expenditures	$567,620	$520,244.10	$47,375.90

The revenue figures are sourced from HdL, while the expense numbers come from LVWHD. All figures are unaudited.

Assessment

There is no change in the method and basis of levying the assessment.

Assessment Rate

The annual assessment rate is two percent (2%) of gross direct-to-consumer sales revenue of assessed wineries. Based on the benefit received, assessments will not be collected on purchases made outside of the state of California or purchases made pursuant to contracts executed prior to January 1, 2022. Revenue generated from the LVWHD is intended only to provide programs and services for assessed businesses, all of which are located in California. Sales made outside of the state of California are not subject to assessment due to a lack of benefit. Assessment dollars will not be spent on any programs or activities to benefit individual winery businesses outside of the state of California. Assessment dollars may be spent outside of California to elevate the notoriety of the Livermore Valley as a premier winery destination with the desired outcome of increased in-person visitation to business paying the assessment.

The term "gross sales revenue" as used herein means: the consideration charged by wineries, for all direct-to-consumer sales of wine, wine club shipments (whether shipped or picked up), ticket sales, tasting fees, tours and private and public special events, merchandise, prepared and packaged foods for on-premise or off-premise consumption (whether sold in a tasting room or a stand-alone restaurant on-premise), orders placed via telemarketing, telephone, online, email, whether carried out at the time of purchase, shipped or picked up at a later date (pre-sales). Gross sales revenue shall not include any federal, state or local taxes collected, including but not limited to sales and use taxes.

The assessment is levied upon and a direct obligation of the assessed winery. However, the assessed winery may, at its discretion, pass the assessment on to customers. The amount of assessment, if passed on to each customer, shall be disclosed in advance and separately stated from the amount charged and any other applicable taxes, and each customer shall receive a receipt for payment from the business. If the LVWHD assessment is identified separately it shall be disclosed as the "LVWHD Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed winery even if it is passed on to customers. The California Department of Tax and Fee Administration (CDTFA) issued a written opinion that state sales tax applies to the revenue generated from Business Improvement District assessments on items where state sales tax is levied. In light of CDTFA's opinion, businesses that pay both state sales tax and LVWHD assessments on sales are advised to collect sales tax on the assessment revenue.

Bonds shall not be issued.

Time and Manner for Collecting Assessments

The LVWHD assessment was implemented beginning January 1, 2022 and continuing for four and a half (4.5) years to end on June 30, 2026. The City of Livermore or a

third-party collection agency will be responsible for collecting the assessment on a quarterly basis (including any delinquencies, penalties and interest) from each winery located in each jurisdiction within the LVWHD. The City or a third-party collection agency shall take all reasonable efforts to collect the assessments from each winery. The City or a third-party collection agency shall forward the assessments collected to the Owners' Association.

Penalties and Interest

The LVWHD shall reimburse the City of Livermore (City) for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent LVWHD assessment are sought to be recovered in the same collection action by the City, the LVWHD shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. ***Original Delinquency***
   Any winery that fails to remit any assessment imposed by this section within the time required shall pay a penalty of ten percent (10%) of the amount of the assessment in addition to the assessment.
2. ***Continued Delinquency***
   Any winery that fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent (10%) of the assessment in addition to the assessment and the ten percent (10%) penalty first imposed.
3. ***Fraud***
   If the City or third-party collection agency determines that the nonpayment of any remittance due under this article is due to fraud, a penalty of twenty-five percent (25%) of the amount of the assessment shall be added thereto in addition to the penalties stated in paragraph one (1) and two (2) above of this section.
4. ***Interest***
   In addition to the penalties imposed, any winery who fails to remit any assessment imposed by this section shall pay interest at the rate of one-quarter of one percent (0.25%) per month or fraction thereof on the amount of the assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

Surplus and Other Funding

Surplus

There will be $47,375.90 from the previous year carried over into 2023/2024, plus $89,688.10 from 2021/2022.

Other Funding

Outside funding in the amount of approximately $65,000 is estimated to be contributed from event income in 2023/2024.

Appendix – Assessed Businesses

3 STEVES WINERY	ALMOST FAMOUS WINE COMPANY
ARROYO CELLARS	BECK FAMILY VINEYARDS
BENT CREEK WINERY	BIG WHITE HOUSE LLC
BOAVENTURA DE CAIRES WINERY	CADDIS
CEDAR MOUNTAIN WINERY INC	CHARLES R VINEYARDS
CHATEAU BELLEVUE	CONCANNON VINEYARDS
CROOKED VINE / STONY RIDGE	CUDA RIDGE WINES LLC
DANTE ROBERE VINEYARDS	DEL SOL VINEYARDS LLC
DEL VALLE WINERY	~~EAGLE RIDGE VINEYARD~~
EHRENBERG CELLARS	ENOTECA FIVE
FAVALORA VINEYARDS & WINERY, INC	FENESTRA WINERY
GARRE VINEYARD & WINERY	MITCHELL KATZ
LAS POSITAS VINEYARDS	LEISURE STREET WINERY
LONGEVITY WINES	MADISON VINEYARDS INC.
MCGRAIL VINEYARDS AND WINERY	MURRIETAS WELL
NOTTINGHAM CELLARS	OCCASIO WINERY
OMEGA ROAD WINERY & CELLARS	PAGE MILL WINERY LLC
PAT PAULSEN VINEYARDS	PRUETT FARMS
RETZLAFF VINEYARDS	RIOS LOVELL WINERY
RODRIGUE MOLYNEAUX WINERY	ROSA FIERRO CELLARS
SAKURA WINERY	TENUTA VINEYARD
STEVEN KENT WINERY	WENTE VINEYARDS
TESLA VINTERS	
WOOD FAMILY VINEYARDS	

* The list was developed with the most reliable information provided; however, the list may contain discrepancies. This list shall include any future to-be opened businesses. Any business that may have been missed in this list, but is still within the boundaries of the LVWHD, shall also be subject to assessment.

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 5.7**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution accepting public improvements constructed pursuant to the Subdivision Improvement Agreement for Tract Map 8173 located at 2855 Old First Street for the construction of 17 single family residential homes by Concentric Development Group, Inc. for permanent maintenance and authorizing release of security.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution accepting public improvements constructed pursuant to the Subdivision Improvement Agreement for Tract Map 8173 located at 2855 Old First Street for the construction of 17 single family residential homes by Concentric Development Group, Inc. for permanent maintenance and authorizing release of security.

SUMMARY

On November 8, 2021, the final Tract Map 8173 to construct 17 single family residential homes, at 2855 Old First Street was approved by the City Council with a Subdivision Improvement Agreement and security for the construction of public improvements. The public improvements for the project include a public storm drain and sewer system. The developer, Concentric Development Group, Inc., has completed the public improvements to the satisfaction of the City Engineer. The City Council can now accept Tract Map 8173 public improvements for permanent maintenance and release security.

DISCUSSION

Tract Map 8173 consists of 17 residential single-family homes and is located at 2855 Old First Street. On November 8, 2021, final Tract Map 8173 was approved by City Council with a Subdivision Improvement Agreement and security for public improvements. Concentric Development Group, Inc. has fulfilled all of the obligations as described in the Conditions of Approval and Subdivision Improvement Agreement for Tract Map 8173 to the satisfaction of the City Engineer. The public improvements for the project include an 18" storm drain system that runs between the new development and First Street, an 8"-24" sewer system that runs between the new development and Junction Avenue, as well as new pavement along Old First Street. The City Council can now accept Tract Map 8173 for permanent maintenance and release the security that was provided as surety for these public improvements as specified in the

Subdivision Improvement Agreement.

FISCAL AND ADMINISTRATIVE IMPACTS

The estimated annual operations and replacement costs for the public infrastructure, including storm drain, sewer and pavement is approximately $5,000. $2,000 of this cost is funded by sanitary sewer user fees, and $3,000 is funded by the General Fund, which is partially derived from increased property taxes generated from the new development. As part of the Downtown Landscape Maintenance District, homeowners within this tract will also be assessed annually to provide a portion of funds to maintain public amenities within the Downtown Specific Plan.

COMMUNITY PILLAR

2: A Safe Community That Thrives

GOAL

9: Facilitate new development consistent with the City's General Plan

ATTACHMENTS

1. Vicinity Map
2. Resolution

Prepared by: Farnoush Levers
Senior Civil Engineer

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

LIVERMORE CALIFORNIA

VICINITY MAP

ATTACHMENT 1



Notes:

166.7 0 83.33 166.7 Feet

NAD_1983_StatePlane_California_III_FIPS_0403_Feet
Livermore IT, GIS Services

Scale: 1: 1,000

ATTACHMENT 1

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

EXEMPT FROM FILING FEES PURSUANT TO
GOV. CODE § 27383

CITY CLERK
CITY OF LIVERMORE
1052 S. LIVERMORE AVENUE
LIVERMORE, CA 94550

Space Above This Line For Recorder's Use Only

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS CONSTRUCTED PURSUANT TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT MAP 8173 LOCATED AT 2855 OLD FIRST STREET FOR THE CONSTRUCTION OF 17 SINGLE FAMILY RESIDENTIAL HOMES BY CONCENTRIC DEVELOPMENT GROUP, INC. FOR PERMANENT MAINTENANCE AND AUTHORIZING RELEASE OF SECURITY

(Concentric Development Group, Inc. - Tract Map 8173)

On November 8, 2021, the City Council adopted Resolution No. 2021-184 approving Tract Map 8173 and authorizing the execution of a Subdivision Improvement Agreement with Concentric Development Group, Inc. The Subdivision Improvement Agreement for Tract Map 8173 was recorded under Series No. 2021391738, dated December 8, 2021, Official Records of Alameda County, California.

The City Engineer of the City of Livermore has filed with the City Clerk a report in writing that all public improvements constructed pursuant to the Subdivision Improvement Agreement for Tract Map 8173 have been completed by Concentric Development Group, Inc. to City of Livermore's standards and are now ready for acceptance by the City of Livermore for permanent maintenance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that:

1. The City Council hereby accepts all public improvements required to have been constructed pursuant to the Subdivision Improvement Agreement for Tract Map 8173, recorded under Series No. 2021391738, dated December 8, 2021, Official Records of Alameda County, California ("Subdivision Improvement Agreement").

2. The faithful performance bond guaranteeing the Subdivision Improvement Agreement is hereby released.

3. The labor and materials bond guaranteeing the Subdivision Improvement Agreement shall, six months after the date of this resolution, be reduced to an amount equal to the amount of all claims filed and of which notice has been given to the City of Livermore. The balance of the bond shall be released upon the settlement of all such claims and obligations for which the security was given.

4. The security for the guarantee and warranty of the work under the Subdivision Improvement Agreement shall remain in effect for one year from the date of this resolution. The contractor/developer is required to reconstruct any deficiencies that occur and to repair or replace defective materials during the maintenance period.

The City Clerk is directed to record this resolution in the office of the Alameda County Recorder.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Molly O'Toole
Molly O'Toole
Deputy City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 6.1**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Hearing to consider amending the Livermore Municipal Code Chapter 5.90 Short-Term Rentals, Section 5.90.050 Locations, to allow accessory dwelling units with building permits issued prior to January 1, 2020, to be used as short-term rentals.

RECOMMENDED ACTION

Staff recommends that the City Council do the following:

1. Adopt a resolution finding the project is exempt from the California Environmental Quality Act; and
2. **Introduce an ordinance** and waive the first reading, amending Chapter 5.90 Short-Term Rentals, Section 5.90.050 of the Livermore Municipal Code, allowing accessory dwelling units with building permits issued prior to January 1, 2020, to be used as short-term rentals.

SUMMARY

In late 2020, the City Council approved Municipal Code Ordinance 2120 establishing regulations for short-term rentals (Chapter 5.90). The purpose of the ordinance was to monitor short-term rental activity through the permitting process and help alleviate potential impacts by holding hosts accountable for compliance with adopted regulations. Currently, short-term rentals are allowed in permanent dwelling units, or portions thereof, located in residential districts. A host, or property owner, is limited to one short-term rental at any one time and only one short-term rental may be operated at a single location. Short-term rentals are currently not allowed in accessory dwelling units. Accessory dwelling units (sometimes called "granny flats" or "in-law units") are defined as separate, complete housekeeping units with a separate entrance, kitchen, sleeping area, and full bathroom facilities that is attached or detached from the main home.

Staff is recommending a Municipal Code amendment to allow accessory dwelling units legally permitted prior to January 1, 2020, to be used as Short-Term Rentals (STR), which is a rental for 30 days or less, if the owner applies for and receives an STR permit from the City.

DISCUSSION

Over the past year, staff has worked with Granicus consulting to implement the permitting process for

short-term rentals (STR). There are about 70 short-term rentals in Livermore advertised on various websites such as AirBNB and VRBO.

California Government Code Section 65852.2 regulates the creation of accessory dwelling units in areas zoned for single-family or multifamily residential use. The regulations address use of accessory dwelling units and development standards such as minimum and maximum square footage, height and parking. For accessory dwelling units permitted prior to January 1, 2020, the Government Code states that "a local agency *may* (emphasis added) require that an accessory dwelling unit be used for rentals of terms longer than 30 days." In other words, a local agency could prohibit the use of accessory dwelling units permitted prior to January 2020 for short-term rentals, which is 30 days or less, but it was not required under state law.

The Livermore Development Code does have accessory dwelling regulations too, but they are currently being updated to reflect new state legislation. Currently, city staff defers to state law for accessory dwelling unit regulations until the update is complete.

Senate Bill 13 (effective January 1, 2020) added additional, less restrictive development standards for accessory dwelling units to create additional longer-term housing opportunities. As such, under the Government Code, local agencies *shall* require that a rental of an accessory dwelling unit created under the new, less restrictive 2020 regulations be for a term of longer than 30 days.

The Livermore Municipal Code currently does not allow any accessory dwelling unit, regardless of when it was permitted, to be used for a short-term rental (30-days or less). As stated above, the City does have the discretion to allow accessory dwelling units created prior to January 1, 2020, to be used for short-term rentals. Based on staff research as part of the STR permitting program, there are less than five residential properties that have accessory dwelling units permitted before January 1, 2020, that were used for short-term rentals prior to the adoption of City's STR regulations.

Staff recommends allowing STR's in these older accessory dwelling units (sometimes called and permitted as "secondary dwelling units" prior to 2020) based on concerns from the property owners that they invested in, developed, and used these units as STRs for a number of years and that they rely on the rental income from the short-term rental use. STRS also provide flexibility for some families to meet the needs of housing for family members for some portion of the year while still deriving income from the STR use at other times. In addition, and as stated above, state law does allow STRs in accessory dwelling units permitted prior to January 2020.

Finally, all STRs in the City now must apply for a license to ensure compatibility with the surrounding neighborhoods regarding issues such as noise, parking, and public safety. The permit requires contact information on file for the STR host and a complaint hotline that is serviced by Granicus to address complaints expeditiously.

As part of the STR permitting process, adjacent properties are notified of the STR application, and neighbors can provide comments prior to action on the permit. Some neighbor concerns staff have heard are related to the lack of an on-site host to deal with problems promptly, particularly with the rental of an entire house. With an accessory dwelling unit, however, the host or another responsible party is more likely to be on-site in the main home and available to address neighbor concerns. Finally, the City may deny an STR permit renewal or suspend or revoke and active permit if the host does not meet all of the STR regulations.

Staff recommends the following Municipal Code amendment to Chapter 5.90 Short-Term Rentals, Section 5.90.050 Locations:

5.90.050 Locations.

A. Short-term rentals are permitted only ~~within~~ in the following:

1. *legal conforming and legal nonconforming permanent dwelling units within residential districts, and*
2. *accessory dwelling units for which a building permit was issued prior to January 1, 2020, and a certificate of occupancy was subsequently issued.*

B. No person shall operate or allow short-term rental of property in any location not approved for use as a permanent dwelling unit, including but not limited to any vehicle, trailer, tent, storage shed, or garage.

C. No person shall operate a short-term rental in an accessory dwelling unit that obtained a building permit on or after January 1, 2020.

D. Hosts shall be limited to one short-term rental permit at any one time in the City.

E. A residential dwelling that is a short-term rental may not be rented by more than one renter at a time.

F. No more than one short-term rental may be operated at a single location.

The amendment would allow the limited use of accessory dwelling units as short-term rental consistent with state law.

ENVIRONMENTAL REVIEW

Staff recommends the City Council find the project is exempt from the California Environmental Quality Act under Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The proposed project does not result in the approval of any development project, nor does it directly or indirectly impact the physical environment. (Section 15060(c)(2))

FISCAL AND ADMINISTRATIVE IMPACTS

The proposed Municipal Code Amendment could result in additional short-term rental permit applications. However, it is not anticipated to be a significant number of applications and will not significantly increase staff time or impact the permitting process. The City will also collect Transient Occupancy Taxes (TOT) from the short-term rentals.

COMMUNITY PILLAR

1. A Safe Community That Thrives

GOAL

7. Expand and preserve the supply of affordable housing opportunities

ATTACHMENTS

1. Resolution
2. Ordinance

Prepared by: Susan Frost
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 FINDING THAT THE PROJECT IS EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

(Municipal Code Amendment 23-001)

The City of Livermore initiated an application for Municipal Code Amendment 23-001 to amend Municipal Code Section 5.90.050 Short-Term Rentals regarding the use of accessory dwelling units with building permits issued prior to January 1, 2020, for short term rentals ("Project").

On November 27, 2023, the City Council held a duly noticed public hearing to consider the Project, staff recommendations, and 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 hereby finds that the Project is exempt under CEQA Guidelines Section 15061(b)(3) (common sense exemption) in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Short-term rentals will be allowed to be located in a limited number of existing accessory dwelling units, which are consistent with existing general plan land use designations and zoning regulations.

BE IT FURTHER RESOLVED that the City Council of the City of Livermore directs the Planning Manager to file a Notice of Exemption 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 November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Kimberly D. Cilley
Kimberly D. Cilley
Senior Assistant City Attorney

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE AMENDING LIVERMORE MUNICIPAL CODE CHAPTER 5.90, SECTION 5.90.050 (SHORT-TERM RENTALS)

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

Section 1. *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 the 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 of Evidence"). The City Council's determination is based on the Record of Evidence, which is incorporated into this Ordinance by reference.

Section 2. *Environmental.* The City Council has adopted Resolution No. _____ finding that Municipal Code Amendment 23-001 is exempt from the California Environmental Quality Act.

Section 3. *Ordinance.* Section 5.90.050 of Chapter 5.90 *Short-Term Rentals* of the Livermore Municipal Code is hereby amended as follows:

5.90.050 Locations.

A. Short-term rentals are permitted only in the following:
    1. legal conforming and legal nonconforming permanent dwelling units within residential districts, and
    2. accessory dwelling units for which a building permit was issued prior to January 1, 2020, and a certificate of occupancy was subsequently issued.

B. No person shall operate or allow short-term rental of property in any location not approved for use as a permanent dwelling unit, including but not limited to any vehicle, trailer, tent, storage shed, or garage.

C. No person shall operate a short-term rental in an accessory dwelling unit that obtained a building permit on or after January 1, 2020.

D. Hosts shall be limited to one short-term rental permit at any one time in the City.

E. A residential dwelling that is a short-term rental may not be rented by more than one renter at a time.

F. No more than one short-term rental may be operated at a single location.

Section 4. *Consistency.* The ordinance is consistent with the Livermore General Plan, any applicable specific plan, and the Livermore Municipal Code.

Section 5. *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 6. *Filing.* The Planning Manager is directed to file a Notice of Exemption with the Alameda County Clerk.

Section 7. *Documents.* 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, Livermore, California.

Section 8. *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 November 27, 2023, 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:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Kimberly D. Cilley
Kimberly D. Cilley
Senior Assistant City Attorney

LIVERMORE
CALIFORNIA

CITY COUNCIL STAFF REPORT **ITEM NO. 7.1**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Paul Spence, Community Development Director

SUBJECT: Resolution accepting the Altamont Landfill Open Space Committee's recommendation to expend funds for a grant to allow the California Rangeland Trust in the amount of $145,810 for the purchase of a 120-acre conservation easement on a portion of the of the 160-acre Diranne Ranch (DC Ranch) located in Eastern Alameda County.

RECOMMENDED ACTION

Staff recommends the City Council adopt a resolution accepting the Altamont Landfill Open Space Committee's proposed expenditure of $145,810 of Altamont Open Space Funds for the purpose of funding the grant request of the California Rangeland Trust to purchase and manage a 120-acre conservation easement on the 160-acre Diranne Ranch (DC Ranch) located in Eastern Alameda County and finding the request is consistent with the Altamont Landfill Settlement Agreement.

SUMMARY

The Altamont Landfill Open Space Committee (Open Space Committee), on which the City of Livermore serves as a voting member, recommends funding a grant request from the California Rangeland Trust (Rangeland Trust) for the purpose of purchasing a conservation easement.

On September 15, 2023, the Open Space Committee voted to expend $145,810 of Altamont Landfill Open Space Funds to the California Rangeland Trust. Other funding has been secured by the Rangeland Trust from the Bureau of Reclamation for the conservation easement, however, the Bureau of Reclamation funds do not cover all project costs. The Open Space funds will cover the remainder of the cost of the conservation easement (see Attachment 4 for the full text of the grant application).

DISCUSSION

See Attachment 1 for Staff Analysis.

ATTACHMENTS

1. Staff Analysis

2. Location Maps
3. Resolution
4. Exhibit A to Resolution - California Rangeland Trust Grant Application

Prepared by: Jennifer Ackerman
Assistant Planner

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director

CITY OF LIVERMORE CALIFORNIA

ITEM

Date: November 27, 2023

To: Honorable Mayor and City Council

From: Paul Spence, Community Development Director

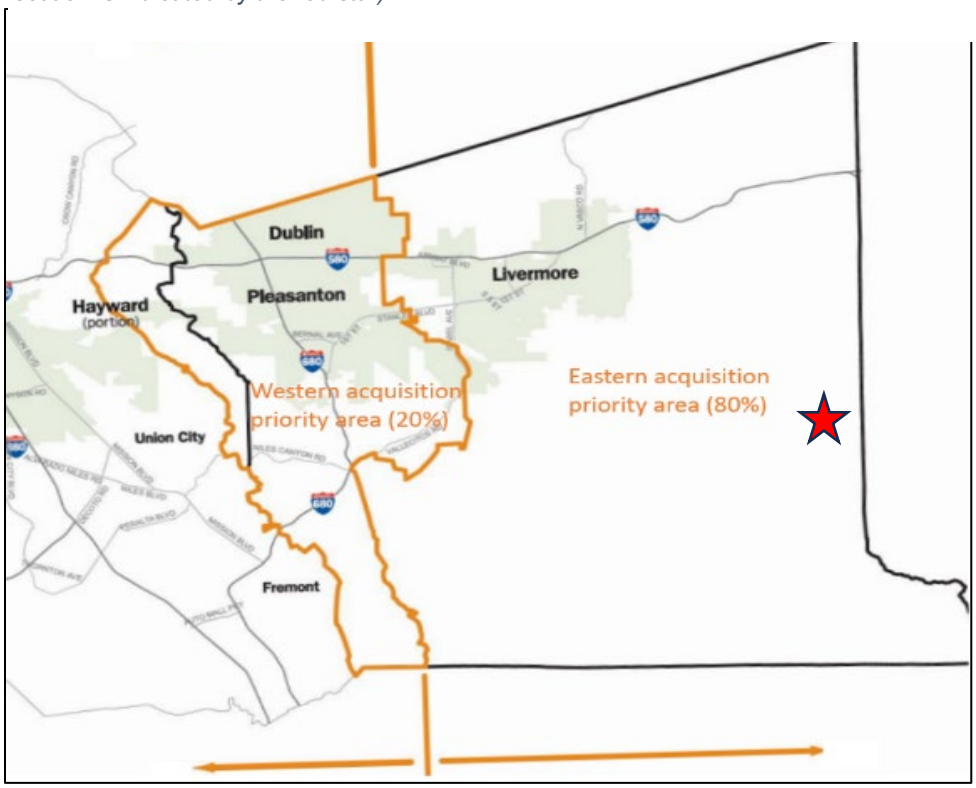
Subject: Altamont Landfill Open Space Committee Recommendation to Expend Funds for a Grant to allow the California Rangeland Trust to complete the purchase of a Conservation easement on 120 acres of the 160-acre Diranne Ranch (DC Ranch) located in Eastern Alameda County (APN 99A-2200-1-25).

BACKGROUND

Altamont Landfill Settlement Agreement Open Space Fund: In 1999, the lawsuit parties (Alameda County, Cities of Livermore and Pleasanton, Sierra Club, Northern California Recycling Association, Altamont Landowners Against Rural Mismanagement, and Waste Management of Alameda County) entered into a Settlement Agreement relating to the proposed expansion of the Altamont Landfill. Results of the Settlement Agreement include substantial reductions in the landfill expansion and waste imports, and a requirement for the operator to collect a $0.75 per ton fee for open space acquisition.

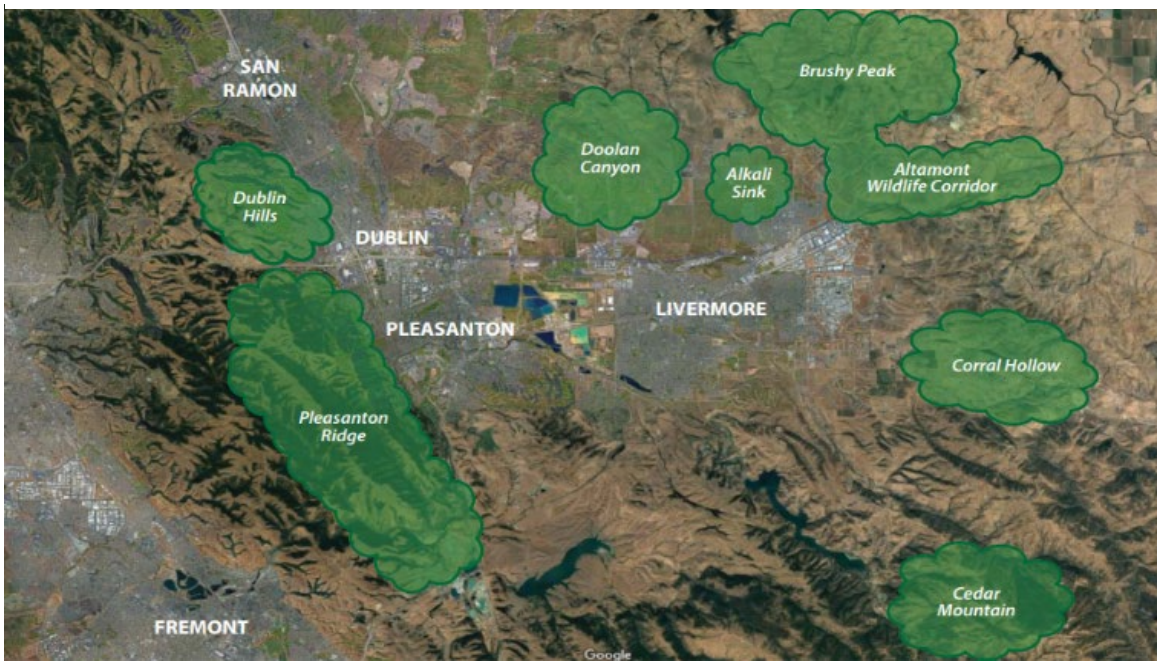
Funding allocations are recommended by the voting members of the Altamont Landfill Open Space Committee (Open Space Committee). The City of Livermore, Alameda County, and the Sierra Club represent the voting members for the eastern acquisition priority area which receives eighty percent of the open space account money. The City of Pleasanton, Alameda County, and the Sierra Club represent the voting members for the western acquisition priority area that receives twenty percent of the Open Space Committee account money (see Figure 1).

Figure 1: Boundary of Eastern and Western Acquisition Priority Areas (DC Ranch approximate location is indicated by the red star).



Several general acquisition priority areas have been identified in the western and eastern portions of the Alameda County (County). As shown in Figure 2, the priority areas of the western portion of the County are Arroyo Mocho, Pleasanton Ridge, Dublin Hills. The eastern County priority list contains the Doolan Canyon Area, Springtown Alkali Sink, Tesla/ Corral Hollow, Cedar Mountain, Brushy Peak, Altamont Pass wildlife corridor. Dirrane Ranch (DC Ranch) is in the Tesla/Corral Hollow area.

Figure 2: Map of Identified Priority Acquisition Areas



Vasco Road Landfill Open Space Fund: On May 4, 2006, the Alameda County Board of Supervisors upheld the County Planning Commission's approval amending the Conditional Use Permit for the Vasco Road Landfill to continue landfill and recycling activities. Consistent with the language in the Altamont Settlement Agreement, the approval requires the Vasco Road Landfill operator, Republic Services, Inc., to collect the same per-ton fees for open space, recycling/diversion education, and host community impact, as the Altamont Landfill operator, Waste Management of Alameda County, Inc. Vasco Road Landfill Conditions of Approval require the collection and expenditures from the fee accounts to be identical to the Altamont Landfill Settlement Agreement.

To date, the City Council has approved the Open Space Committee's recommendations to distribute funds for 10 acquisitions in the eastern acquisition priority area, as summarized in the table 1 below:

Table 1: Approved Acquisitions in the eastern acquisition priority area

City Council Date	Grant Amount	Acres	Acquisition Entity	Location
February 25, 2008	$200,000	80	East Bay Regional Park District	Adjacent to Del Valle Regional Park (Newbury Property)

July 13, 2009	$1,040,465	107	City of Livermore	Doolan Road adjacent to UGB and City Boundary
September 27, 2010	$300,000	74	Tri-Valley Conservancy	Bobba Property off Arroyo Road near the Veteran's Hospital
October 25, 2010	$2,000,000	633	East Bay Regional Park District	Doolan Ranch
June 27, 2011	$1,000,000	65	East Bay Regional Park District	Farber Property
October 28, 2013	$420,000	81	City of Livermore	Doolan Road north of City-owned properties
December 9, 2013	$500,000	79	East Bay Regional Park District	Eddie's Flat between Vasco and Lauglin Road
October 27, 2017	$132,200	2	East Bay Regional Park District	Gosselin Staging Area and Trail Easement into Doolan Canyon Preserve
December 10, 2018	$1,000,000	137	City of Livermore	Doolan Road adjacent to Dublin and in proximity to Doolan Ranch
January 29, 2019	$500,000	0	Tri-Valley Conservancy	Shadow Cliffs to Del Valle Trail Bridge
Total	**$7,092,665**	**1,258**		

DISCUSSION

The Open Space Committee holds regular meetings under the terms of the Settlement Agreement. Councilmember Carling is Livermore's Open Space Committee representative. As stated previously, the Settlement Agreement requires the Open Space Committee to establish a priority list of future acquisition areas in Eastern Alameda County based upon the criteria below in the Settlement Agreement:

1. Properties with significant value for preservation of native biological diversity and/or wildlife, and
2. Properties having significant value for visual character and/or non-motorized recreation.

Additional criteria for acquisitions developed and utilized by the Open Space Committee includes strategic value in land protection, additional funding sources, and willing sellers. Consistent with these additional criteria, previous acquisitions have provided biological/ recreational linkage between open space properties and/or stabilized open space land use beyond the Urban Growth Boundary, partnered with other organizations for funding, and involved willing sellers.

Per section 7.4.6.1, the Settlement Agreement allows for the priority list and allocation of funds proposed for the eastern area, by majority vote taken among the County, the City of Livermore, and the Sierra Club voting members.

During the Committee meeting held on September 15, 2023, the voting members of the eastern acquisition priority area voted unanimously in favor of expending $145,810 to fund the California Rangeland Trust's Grant Request for the Conservation Easement Acquisition Project, DC Ranch (conservation easement). The requested amount will complement the recently awarded Bureau of Reclamation's Grant and complete the amount necessary for the purchase and administration of the conservation easement.

Strategic Value

Strategic value in land protection involves the following aspects: protecting property at risk of development, securing an urban growth boundary or an existing greenbelt, property that is contiguous to existing protected lands (or links protected lands), property that fits into a long-term strategic plan for land protection, and property that fits into a city's land protection goals. The DC Ranch property is contiguous to existing open space such as Carnegie Park, which will be preserved in the future. The funding of a grant for a Conservation Easement on DC Ranch is consistent with the aspects of strategic value. Furthermore, DC Ranch supports the largest extant population of large-flowered fiddleneck (Amsinckia grandiflora) (AMGR), a federally and state endangered plant species, as well as additional special-status plant and animal species such as California Tiger Salamander (Figures 3 and 4).

Figure 3: Large-Flowered Fiddleneck on DC Ranch



Figure 4, California Tiger Salamander



Additional Funding Sources

One of the Open Space Committee's criteria for funding includes leveraging additional funding sources. Open Space Committee grant funds are requested to complement a recently awarded Bureau of Reclamation grant. That grant will cover most costs required to establish a conservation easement on DC Ranch. Although DC Ranch supports the largest extant population of AMGR, the value of the conservation easement is low, making it a challenge for the property owner to enter into an agreement that is economically feasible. Open Space Committee funds would be used to cover project costs that will not be covered by the Bureau of Reclamation grant and are typically covered by the landowner. The funding by the Open Space Committee would make the sale of the easement economically viable for the landowner as well as enable the protection of the conservation easement area lands in perpetuity. The Open Space Committee funds would be used to finance several operating costs as outlined in Table 1 of the California Rangeland Trust's Grant Application in Attachment 4.

General Plan

Staff supports the funding request because it is consistent with the General Plan open space and conservation policies that are listed below:

Goal OSC-1: Conserve the value and function of Livermore's open space as a biological resource.

Objective OSC-1.1: Maintain biodiversity within the Planning Area with special emphasis on species that are sensitive, rare, declining, unique, or represent valuable biological resources.

P1.: Priority shall be given to land acquisition efforts that would result in the creation and expansion of linkages between existing protected natural resource areas.

P2.: The City shall support efforts to preserve and maintain Corral Hollow, important as the most northerly range of desert plants and animals, as open space.

OSC-1.2 P1.: Habitats of rare or endangered species shall be preserved.

OSC-1.4 P2.: The City shall encourage and cooperate with the County of Alameda to undertake a study to: (1) map the precise distribution of the rare and endangered species as to their number and sites; and (2) determine the sensitivity of these species to development, so that effective management programs can be developed.

OSC-1.4 P.3.: The City shall encourage and cooperate with the County, EBRPD, LARPD, and other agencies and organizations to establish a program to preserve representative examples of natural and near-natural landscape communities, such as the Springtown Alkali Sink, Brushy Peak, Corral Hollow, Cedar Mountain, and Sycamore Grove.

Based on consistency with General Plan policies above, staff recommends the Council accept the Open Space Committee's proposed expenditure of $145,810 to the California Rangeland Trust to fund the grant request.

FISCAL AND ADMINISTRATIVE IMPACTS

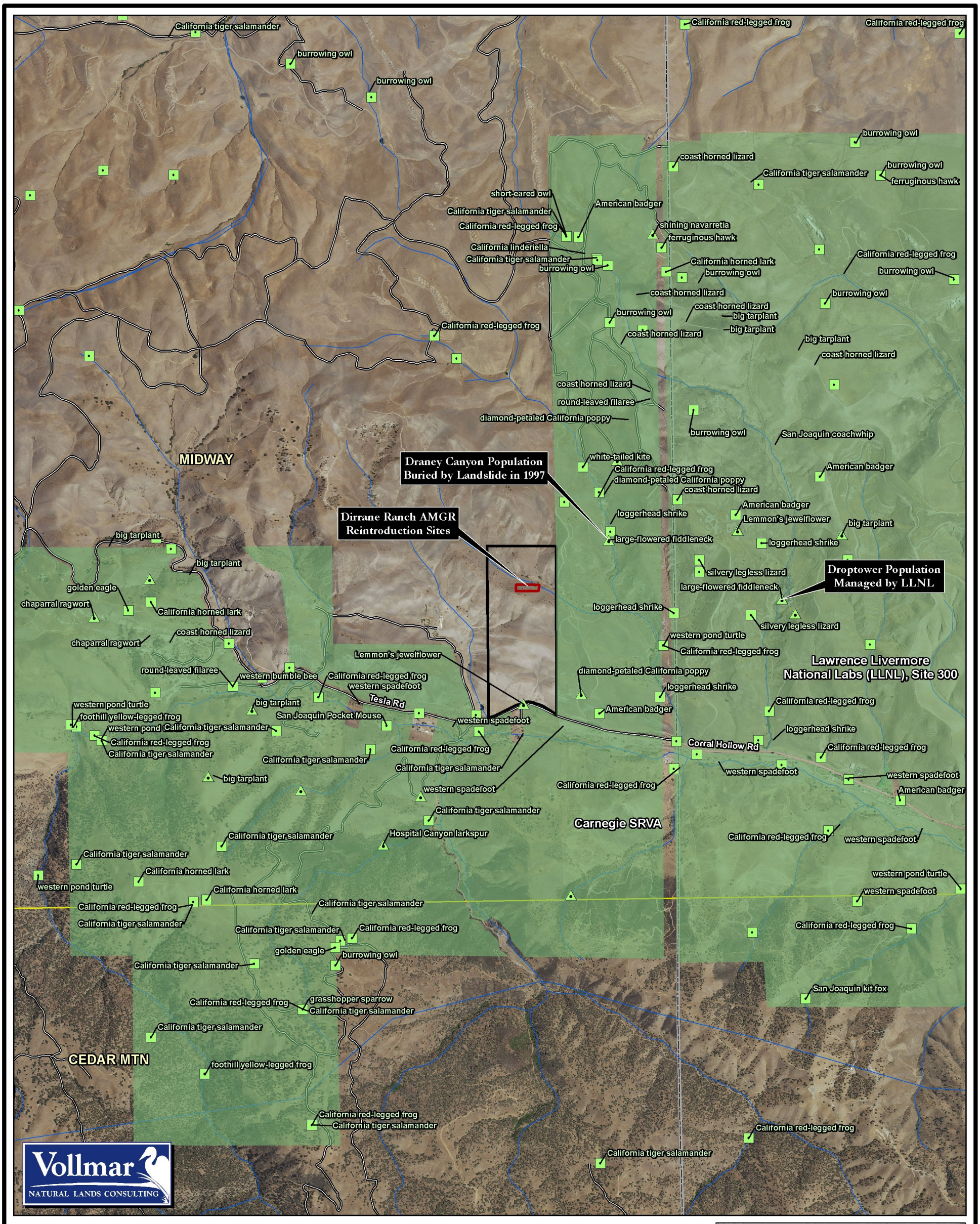
If the City Council accepts the Open Space Committee's recommendation, the balance in the Altamont Landfill Settlement Open Space Fund for East Acquisition Priority Area expenditures would be reduced by $145,810 to cover the proposed grant request. The current balance of the East Acquisition Priority Area fund is approximately $20 million. Funding this grant request would have no impact on the City's General Fund other than the allocation of staff time to prepare this report to the City Council. The City will have no further role after the Funding Concurrence has been made. Alameda County will administer the grant agreement with the California Rangeland Trust.

COMMUNITY PILLAR

3: Environmental Stewardship

GOAL

1: Lead Efforts to Implement the Updated Climate Action Plan in Collaboration with Internal and External Partners



Legend

- CNDDB Special-status Animal
- CNDDB Special-status Plant
- Road
- Stream
- Dirrane Property Boundary (160 ac.)
- Public or Preserve Lands
- USGS Quadrangle Boundary
- Alameda-San Joaquin County Boundary

Note: Entire property is within CRF and AWS designated critical habitat

Data Sources: CNDDB, 2022 | VNLC, 2021
USGS, Various | TIGER, 2010
Alameda County, 2013 | USDA NAIP, 2014
Gap, 1998 | DWR, 2001 | USDA, 2012
Map File: Dirrane-CNDDB_283_B-P_2022-1230

FIGURE 3
CNDDB Map

Alameda County, California

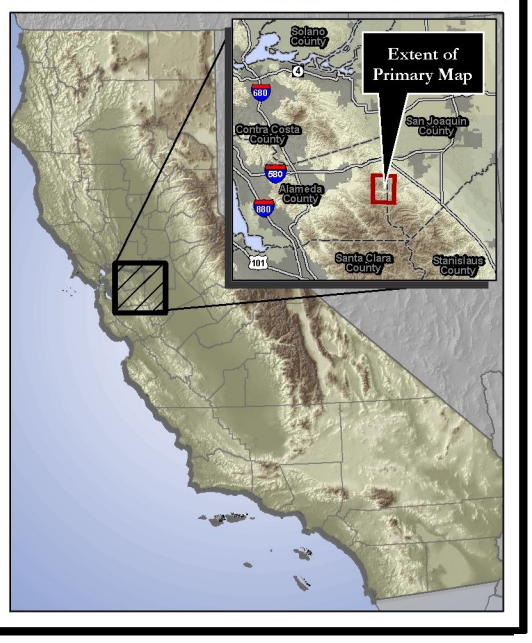
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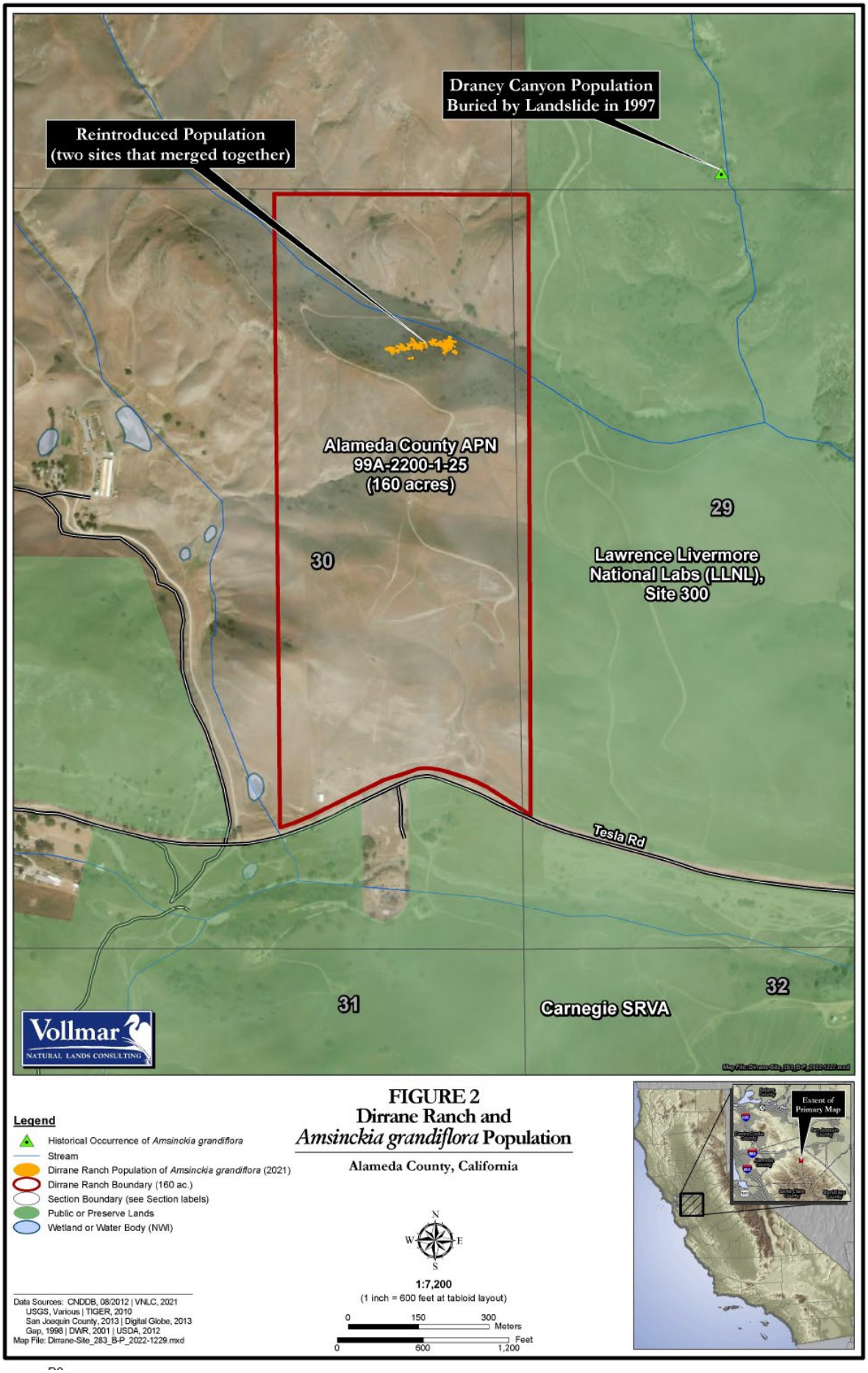
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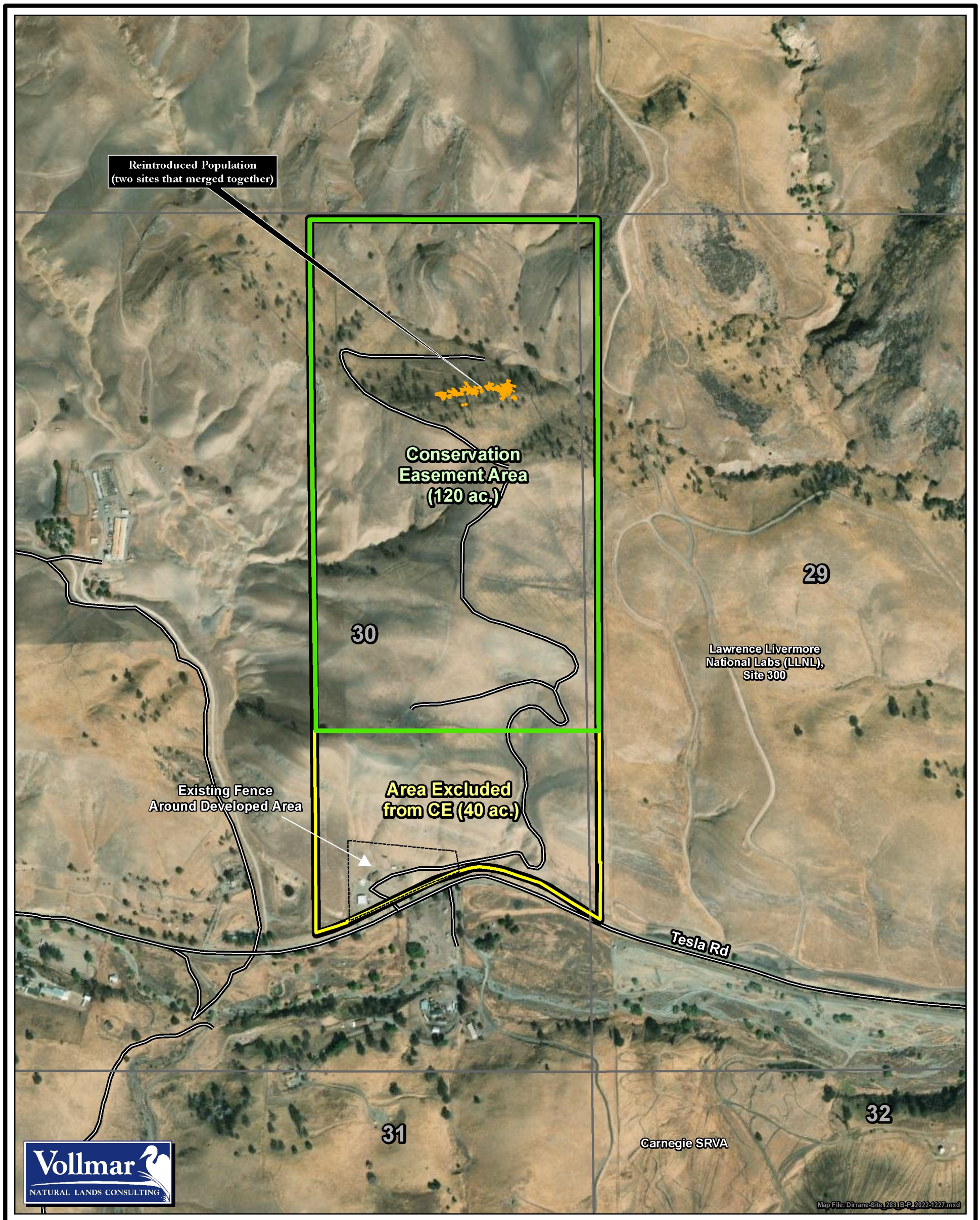
(1 inch = 2,500 feet at tabloid layout)

0 0.25 0.5 1 Kilometers

0 0.5 1 Miles




Draney Canyon Population
Buried by Landslide in 1997
Reintroduced Population
(two sites that merged together)
Alameda County APN
99A-2200-1-25
(160 acres)
29
30
Lawrence Livermore
National Labs (LLNL),
Site 300
Tesla Rd
31
Carnegie SRVA
32
Vollmar
NATURAL LANDS CONSULTING
Legend
Historical Occurrence of Amsinckia grandiflora
Stream
Dirrane Ranch Population of Amsinckia grandiflora (2021)
Dirrane Ranch Boundary (160 ac.)
Section Boundary (see Section labels)
Public or Preserve Lands
Wetland or Water Body (NWI)
Data Sources: CNDDB, 08/2012 | VNLC, 2021
USGS, Various | TIGER, 2010
San Joaquin County, 2013 | Digital Globe, 2013
Gap, 1998 | DWR, 2001 | USDA, 2012
Map File: Dirrane-Site_283_B-P_2022-1229.mxd
FIGURE 2
Dirrane Ranch and
Amsinckia grandiflora Population
Alameda County, California
N
W
E
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1:7,200
(1 inch = 600 feet at tabloid layout)
0 150 300 Meters
0 600 1,200 Feet
Extent of
Primary Map



Dirrane Ranch
Conservation Easement Map

Alameda County, California

Legend

- Road
- Population of Large-flowered Fiddleneck
- Conservation Easement Area (120 ac.)
- Building Envelope (40 ac.)
- Dirrane Ranch Boundary (160 ac.)
- Section Boundary (see Section labels)

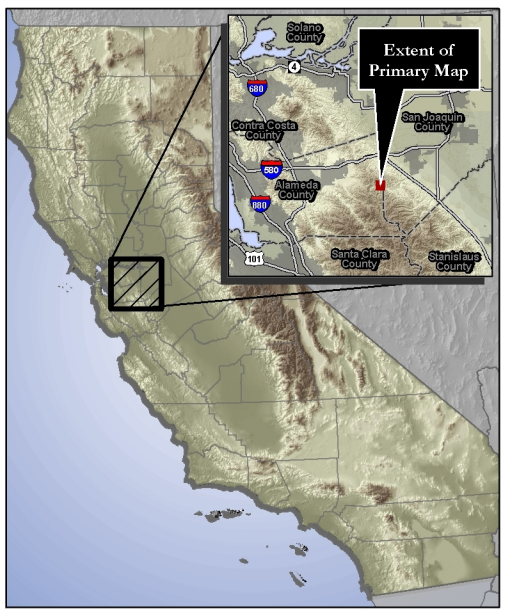
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(1 inch = 600 feet at tabloid layout)

0 150 300 Meters

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Data Sources: CNDDB, 08/2012 | VNLC, 2023
USGS, Various | TIGER, 2010
San Joaquin County, 2013 | Digital Globe, 2013
Gap, 1998 | DWR, 2001 | USDA, 2012
Map File: Dirrane-CE_283_B-P_2023_1109.mxd

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION ACCEPTING THE ALTAMONT LANDFILL OPEN SPACE COMMITTEE'S RECOMMENDATION TO EXPEND FUNDS FOR THE CALIFORNIA RANGELAND TRUST'S GRANT REQUEST IN THE AMOUNT OF $145,810 FOR THE PURCHASE OF A 120-ACRE CONSERVATION EASEMENT ON A PORTION OF THE 160-ACRE DIRANNE RANCH (DC RANCH) IN EASTERN ALAMEDA COUNTY (APN 99A-2200-1-25)

The City of Livermore's General Plan includes goals for long-term preservation of open space, including low-intensity agriculture, habitat protection, watershed management, and recreational uses.

In 1996, Alameda County certified an Environmental Impact Report and approved a conditional use permit for expansion of the Altamont Landfill by Waste Management of Alameda County, Inc., resulting in litigation.

In 1999, the lawsuit parties (Alameda County, the cities of Livermore and Pleasanton, the Sierra Club, Northern California Recycling Association, Altamont Landowners Against Rural Mismanagement, and Waste Management of Alameda County, Inc.) entered into a settlement agreement relating to the proposed expansion of the Altamont Landfill ("Settlement Agreement").

The Settlement Agreement provides for collection of a fee allocated to an Open Space Account for expenditure on open space acquisitions in fee or permanent easement. The Settlement Agreement required Alameda County to convene an advisory committee comprised of four members as follows: one member appointed by Alameda County, one member appointed by the City of Livermore, one member appointed by the City of Pleasanton, and one member appointed by the Sierra Club ("Open Space Committee").

The Settlement Agreement establishes criteria that limit the use the funds in the Open Space Account to open space acquisition including properties having significant value for preservation of native biological diversity and/or wildlife, and properties having significant value for visual character, and/or non-motorized recreation. The Open Space Committee has developed and utilized additional criteria for the use of the funds, including strategic value in land protection, additional funding sources, and willing sellers.

The Settlement Agreement assigns the Open Space Committee the responsibility to make recommendations on priority lists and allocations for the expenditure of the Open Space Account funds, and then requires the County and the respective city (depending upon the acquisition area) to determine whether the Open Space Committee's recommendation is consistent with the Settlement Agreement and the Open Space Committee's priorities. The City of Livermore, Alameda County, and the Sierra Club represent the voting members of the Open Space Committee for acquisitions in the eastern acquisition priority area that receives 80% of the Open Space Account funds. The City of Pleasanton, Alameda County, and the Sierra Club represent the voting members of the Open Space Committee for acquisitions in the western acquisition priority area that receives 20% of the Open Space Account funds.

On September 15, 2023, the Open Space Committee considered the California Rangeland Trust's request for a grant, a copy of which is attached hereto as Exhibit A, in the amount of $145,810 to help fund the Conservation Easement Acquisition Project, Diranne Ranch (DC Ranch)

(Conservation Easement). The proposed Conservation Easement is located within the eastern acquisition priority area. The requested expenditure will complement the recently awarded Bureau of Reclamation's Grant and complete the amount necessary for the purchase and administration of the Conservation Easement.

The Open Space Committee recommended expending $145,810 from the Open Space fund for a grant to the California Rangeland Trust for acquisition of the proposed Conservation Easement and recommended the Livermore City Council and the Alameda County Board of Supervisors determine that the expenditure is consistent with the Settlement Agreement and the Open Space Committee's priorities. The Open Space Committee also designated the California Rangeland Trust as the entity responsible for carrying out the acquisition and Alameda County is responsible for awarding the funds to the California Rangeland Trust via a grant agreement.

If approved, the expenditure would be awarded though a grant agreement to the California Rangeland Trust for the acquisition.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore that based upon its own independent review of the entire record, it hereby determines that the Open Space Committee's recommended expenditure of Open Space Account funds, and their expenditure for the acquisition of the Conservation Easement, is not a project under the California Environmental Quality Control Act (CEQA) and CEQA Guidelines section 15738, because an approval of the expenditure of funds would not approve a physical development project, would not physically change the environment, and would help preserve natural habitat. Therefore, no environmental review is required.

BE IT FUTHER RESOLVED by the City Council of the City of Livermore, that based upon its own independent review of the entire record, it hereby finds the Open Space Committee's recommendation for the expenditure of $145,810 of Altamont Open Space Funds to fund the grant request by the California Rangeland Trust to purchase and manage the Conservation Easement, is consistent with the Livermore General Plan and the priorities set by the Settlement Agreement and the Open Space Committee.

On motion of Council Member _____, seconded by Council Member _____, the foregoing resolution was passed and adopted on November 27, 2023, by the following vote:

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

ATTEST:

_____
Marie Weber
Deputy City Manager/City Clerk

APPROVED AS TO FORM:

/s/ Jason Alcala
Jason Alcala
City Attorney

Exhibit A – California Rangeland Trust DC Ranch Conservation Easement Application for Grant Funding

DC RANCH CONSERVATION EASEMENT
ALAMEDA COUNTY, CALIFORNIA
120 Acres



APPLICATION FOR GRANT FUNDING
ALAMEDA COUNTY ALTAMONT LANDFILL OPEN SPACE FUND (ALOSF)

August 2023

California Rangeland Trust
3900 Lennane Drive, Suite 210
Sacramento, CA 95834
(916) 444-2096
www.rangelandtrust.org

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APPLICATION FOR GRANT FUNDING

Alameda County Altamont Landfill Open Space Fund

GRANTEE INFORMATION

Name of Applicant Requesting Funding (Project Sponsor): California Rangeland Trust

Project Manager or Contact Person: Nancy Schaefer (cc: Jackie Flatt)

Mailing Address: 3900 Lennane Drive, Suite 210
Sacramento, CA 95834

Telephone Number: Nancy (925) 890-4800, Jackie (916) 444-2096

E-mail Address: nschaefer@rangelandtrust.org, jflatt@rangelandtrust.org

Is the Applicant a Non-profit or 501(c)(3) organization:

- ☑ Yes
- ☐ No

Federal Tax Identification Number: 31-1631453

LANDOWNER INFORMATION

Name of Landowner: Jeannine Dirrane

Mailing Address: 16980 Tesla Rd.
Livermore, CA 94550

Telephone Number: (925) 301-5769 **Fax Number**: N/A

E-mail Address: jdirrane@gmail.com

PROJECT INFORMATION

Project Title: DC Ranch

Project Location: The proposed project is within the 160-acre Dirrane (DC) Ranch, located at 16980 Tesla Rd, Livermore, CA 94550, in the unincorporated area of eastern Alameda County; 10 miles east of Tracy and 11.5 miles west of Livermore (**Figures 1** and **2**). The proposed conservation easement would be approximately 120 acres. Full-color maps of the Ranch are provided in **Appendix A** (**Figures 1** and **2**). Representative site photographs of the Ranch are provided in **Appendix C**.

Jurisdiction in which property is located: City of Livermore; County of Alameda; State of California

Land use designation and zoning applicable to the property: Use Code 5500: RURAL PROPERTY USED FOR AGRICULTURE AND/OR COMMERCIAL 10+ ACRE

Funding Requested: $145,810.50

Total Project Cost (including in-kind contributions): $333,032.75

Itemized Expenses	Requested Funding (ALOSF)	Funded by Another (BOR)
1. Selling Price	$0	$180,000
2. Transaction Costs	$145,810.50	$44,086

Please Note: A Project Budget Worksheet may be found on page 8 of this application.

Proposed funding date: June 1, 2026; upon closing, ALOSF funds will be requested to an escrow account held by a title insurance company.

Estimated completion of the project: July 31, 2026

Is the property currently under a Williamson Act contract?

- ☑ Yes
- ☐ No

If yes, has a notice of non-renewal been filed?

- ☐ Yes
- ☑ No

If yes, when does the contract expire? N/A

Are there other easements or deed restrictions on the property (e.g., conservation easements, access roads, utility lines, pipelines, etc.)? Are other easements currently being negotiated?

- ☑ Yes

No ☐

Who will hold fee title to the land or hold the easement? California Rangeland Trust (CRT) will hold the easement.

Is that entity aware of this project? Yes, CRT is the applicant.

If yes, provide name and contact information of the appropriate representative: same as listed above

Signature of Applicant:  **Date**: 09/01/2023

PROJECT DESCRIPTION

Thoroughly describe the full project and clearly indicate which portions are proposed for ALOSC funding.

Project Introduction

The California Rangeland Trust ('CRT'), a non-profit public benefit land trust, and Vollmar Natural Lands Consulting, Inc. ('VNLC'), an environmental consulting company, are working in partnership with Jeannine Dirrane ('Landowner') to place a conservation easement on DC Ranch ('Ranch'). DC Ranch is a 160-acre privately owned and working cattle ranch located near the eastern border of Alameda County on the eastern slopes of the Diablo Range (**Figures 1 and 2**). VNLC was recently awarded a CVPCP/HRP grant from the Bureau of Reclamation (BOR) to purchase a 120-acre deeded or permanent conservation easement on Dirrane Ranch; however, BOR funds do not cover all project costs, particularly those associated with conservation easement services and long-term easement monitoring and enforcement activities. Altamont Landfill Open Space Fund (ALOSF) awards are requested to co-fund the BOR project, so that the establishment of a conservation easement on the Ranch is possible and economically feasible for the Landowner. The establishment of a conservation easement on the Ranch provides the opportunity for both the continued protection, monitoring, and management of rangeland habitat known to support the largest known population of the federally and state endangered large-flowered fiddleneck (Amsinckia grandiflora) ('AMGR'), one of the most rare and endangered plant species in California, as well as additional special-status plant and animal species known to exist on the Ranch and contiguous (i.e. adjacent) protected lands (e.g. Lawrence Livermore National Laboratory ('LLNL') Site 300) (**Figure 3**).

Project Background

To-date, the Ranch supports the largest extant population of large-flowered fiddleneck (Amsinckia grandiflora) ('AMGR'). As part of a Central Valley Project Conservation Program (CVPCP) grant entitled, "Captive Propagation and Reintroduction of Large-flowered Fiddleneck (Amsinckia grandiflora) on Suitable Sites in Contra Costa, Alameda, and San Joaquin Counties, California", AMGR populations were reintroduced to 10 sites within Alameda, Contra Costa, and San Joaquin counties. The AMGR reintroduction project aimed to establish large self-sustaining populations of approximately 2,000 to 3,000 AMGR plants at as many reintroduction sites as possible. DC Ranch was one of ten sites chosen through the use of modeling software developed to identify suitable microclimates within the historical range of AMGR in the eastern Diablo Range. DC Ranch provides an optimal environment for successful recurring annual generations of AMGR, as the steep north-facing slopes on the north-end of the proposed easement provide the absolute shade required of the AGMR throughout the plant's entire vegetative state, until the reproductive (i.e flowering) stage is triggered upon the emergence of a gentle late-winter and early-spring sun. As of 2021, at the conclusion of the reintroduction grant, the AMGR population within DC Ranch totalled approximately 20,000 plants, making it the largest and most successful reintroduced population known to exist (Schweitzer 2021). That same year, the only known natural occurrence of the AMGR consisted of approximately 6,500 plants at the Contra Costa Water District's ('CCWD') Etchelet Property—a second natural

population was confirmed in 2022 by VNLC at Black Diamond Mines Regional Preserve, consisting of approximately 200 plants. The Landowner has since contracted the installation of fencing around the AMGR population, so that cattle grazing can be effectively managed about the AMGR population to ensure its long-term success.

Project Objectives

- Establish a 120-acre deeded conservation easement on DC Ranch;
- Monitor and enforce the conservation easement agreement in perpetuity;

Vollmar Natural Lands Consulting, Inc. (VNLC) and the California Rangeland Trust (CRT) will work closely alongside the Landowner to establish a deeded conservation easement on the Ranch that will protect the open space rangeland habitat characteristics of the Ranch as well as the AMGR and other rare species populations therein in perpetuity. These objectives will ensure that the successfully reintroduced AMGR populations on the Ranch are permanently conserved and appropriately managed within the context of the active ranching operations.

Project Budget

There is an economy of scale challenge when it comes to conservation easements. If a conservation easement commands a relatively large value or sales price, then the landowners will net sufficient funds from the sale, even after all project costs are subtracted from the total sales revenues. But if a conservation easement value is relatively low, as is the case with DC Ranch, then the landowner is left without sufficient funds once all the project costs are accounted for. In other words, if a conservation easement is relatively low-value, then the project costs will command a much greater percentage of the total easement sale proceeds, leaving the easement transaction economically unviable for the landowner.

Let's use the proposed DC Ranch conservation easement as an example. The proposed conservation easement on DC Ranch is 120 acres. When referencing the “2023 TRENDS in Agricultural Land and Lease Values” publication and assuming a 50% conservation easement value, we estimate the per acre value of the proposed easement to be $1,500/acre.; resulting in a total conservation easement value of $180,000. The total costs associated with the conservation easement project are $153,032.75, meaning that the Landowner could net an estimated $26,967.25 from the sale of the easement. However, there is a significant possibility that a certified appraiser determines the per acre value of the easement to be less than $1,500/acre (e.g. a 40% CE value would derive a $1,200/acre easement value and total conservation easement value of $144,000), which could incur a net negative return to the Landowner should they move forward with the transaction.

ALOSF grant funds are requested to complement or co-fund a recently awarded Bureau of Reclamation (BOR) grant entitled, “Large-flowered Fiddleneck (Amsinckia grandiflora) Conservation Easement Acquisition Project, Dirrane Ranch”. The BOR grant will cover the majority of costs required to establish a conservation easement on DC Ranch. Because the value of the proposed DC Ranch conservation easement is low, ALOSF funds would be used to cover project costs that will not be covered by the BOR grant and are typically covered by the

landowners using easement sale proceeds. By funding these necessary project costs associated with the establishment of any conservation easement, ALOSF would make the sale of the easement economically viable for the Landowner as well as enable the protection of the easement area lands in perpetuity. Should the ALOSF award funds towards the project, said funds would be used to fiance the following: Stewardship Endowment Fund (i.e. easement monitoring in perpetuity); Legal Defense Fund (i.e. easement legal defense in perpetuity); a Mineral Remoteness Assessment (MRA) (if required); CRT staff and outside legal counsel efforts; A-133 Federal Audit (if required); transaction fees; travel and misc. expenses (e.g. on-site project signage). A copy of this budget, entitled: “Table 1. DC Ranch Project Budget Worksheet”, can be found as **Table 1** on page 8 of this application. A copy of a budget worksheet used to calculate the Stewardship Endowment Fund cost may be found as **Table 2** on page 9 of this application with the heading, “Table 2. Stewardship Endowment Fund Budget Worksheet”.

Project Methods

The process for establishing the conservation easement is described below.
The prospective easement holder, CRT, will conduct a review of a Preliminary Title Report. The terms of the easement and monitoring protocols will be negotiated between the easement holder, Landowner, and funding agencies. Upon notification of awarded funds, a certified appraiser will be contracted to determine the fair market value of the conservation easement. Grant agreements will be executed. The Baseline Conditions Report, Phase I Environmental Site Assessment, conservation easement agreement, and other documents will be prepared. Once all conditions of closing are met, a request for funds will be made. Closing on the acquisition of the conservation easement will be accomplished through escrow with a title insurance company.

ALOSF FUNDING CRITERIA

1. Significant Native Biodiversity Value

In addition to supporting the largest documented extant population of large-flowered fiddleneck (Amsinckia grandiflora) (‘AMGR’), the Ranch is known to support additional rare species, including big tarplant (Blepharizonia plumosa – California Rare Plant Rank of 1B.1), California tiger salamander (Ambystoma californiense – federally and state threatened), western spadefoot (Spea hammondii - California Species of Special Concern), and pallid bat (Antrozous pallidus – California Species of Special Concern). Additional special-status species that are in the immediate vicinity include San Joaquin kit fox (Vulpes macrotis mutica), American badger (Taxidea taxus), and San Joaquin coachwhip (Coluber flagellum ruddocki). Finally, the Ranch encompasses designated critical habitat for California red-legged frog (Rana draytonii) and Alameda whipsnake (Masticophis lateralis euryxanthus) (**Figure 3**).

These special-status species as well as the natural habitats upon which they depend are threatened by the encroaching “Tracy Hills” housing development at the eastern edge of Carnegie Canyon, just down the road from the Ranch. Additionally, a conservation easement on

DC Ranch would expand the natural habitat continuity of these special-status species, as DC Ranch is contiguous with the approximately 7,000-acre Lawrence Livermore National Laboratory ('LLNL') Site 300, which is known to support AMGR (as a reintroduced population) as well as multiple other special-status plant and animal species.

2. Significant Visual and/or Non-motorized Recreational Value

DC Ranch is located in the scenic Corral Hollow on the eastern slopes of the Diablo Range. The Ranch is adjacent to the California Department of Parks and Recreation Carnegie State Vehicular Recreation Area (SVRA); the establishment of a 120-acre Conservation Easement on DC Ranch will protect the scenic landscape and special-status species habitat therein.

3. Strategic Value in Land Protection

The proposed conservation easement on DC Ranch would protect in perpetuity one of few existing microclimates able to support large and self-sustaining AMGR populations. Conserving the Ranch provides additional benefits by virtue of being immediately adjacent to or contiguous with several protected habitat areas, including the approximately 7,000-acre Lawrence Livermore National Laboratory ('LLNL') Site 300, which encompasses an extant reintroduced AMGR population and two extirpated AMGR natural populations as well as many other rare plants and animals (**Figure 3**). Additionally, the Ranch is adjacent to public open space owned by the California Department of Parks and Recreation, in the form of the Carnegie SVRA, and an associated open space park that is currently proposed and adjacent to the SVRA (**Figures 1 and 2**). Only one of two extant natural populations of AMGR occurs on the Contra Costa Water District's (CCWD) Etchelet property, which is also in Carnegie Canyon (**Figure 1**). The proposed conservation easement on the Dirrane Ranch will contribute to the larger goal of AMGR recovery, contributing to the creation of a network of conserved and reintroduced AMGR populations in the region as well as permanently protect the unique rangeland habitat that is home to a diversity of special-status species endemic to the region.

4. Additional Funding Sources

The BOR has awarded the majority of grant funds (i.e. $224,086) that will be required to complete the DC Ranch conservation easement project. The BOR grant will fund: an appraisal; the easement purchase at the appraised value of the conservation easement; the Baseline Conditions Report (BCR); a Phase I Environmental Site Assessment; Title & Escrow Closing Costs; VNLC staff hours and travel.

5. Willing Sellers

The Landowner, Jeannine Dirrane, supports the project and is willing to sell a conservation easement on at least a 120-acre portion of the Ranch. A letter of support detailing these sentiments was provided by Jeannine Dirrane, and it can be found in the appendices section of this ALOSF grant application as **Appendix A**.

6. Conservation Easement Management

The long-term management and maintenance of protected lands are critical for achieving the intended benefits of the conservation easement and AGMR populations. A long-term management plan for the Ranch will be developed and implemented by VNLC. The management plan will address grazing, recreation and other human uses, invasive plant and animal species, management for AMGR populations, and management of water resources. The development of this long-term management plan is funded through the BOR grant. Additionally, the Landowner is expected to oversee day-to-day management of the rangeland habitat conducive with an agricultural operation.

7. Conservation Easement Monitoring

Prior to the acquisition of the conservation easement, a Baseline Conditions Report will be prepared to document the existing conditions on the Ranch, including all improvements, structures, fencing, water facilities, and the agricultural and natural resources within the Ranch. The Baseline Conditions Report is funded through the BOR grant, and it will serve as a reference point for all future easement monitoring activities. Monitoring activities will allow the easement holder, CRT, to uphold the intended purposes of the easement. A monitoring plan will be specifically designed and agreed to by the Landowner and the easement holder, along with input from the funding agencies; though, it will typically grant the easement holder the right to to enter upon, inspect, observe, monitor and evaluate the easement area to identify the current condition of, and uses and practices on, the easement area and to determine whether the condition, uses, and practices are consistent with this easement agreement. CRT will conduct annual monitoring, any additional monitoring as circumstances may require, record keeping, and enforcement of the easement to preserve the easement area's agricultural productive capacity and open-space character in perpetuity. CRT will use any funds awarded by the ALOSF to establish a Stewardship Endowment and Easement Defense Fund, which will fund, at minimum, annual easement area monitoring and recordkeeping activities as well as easement legal contests in perpetuity, respectively. A copy of CRT's Standard Agricultural Conservation Easement agreement can be found in the appendices section as **Appendix D**.

The AMGR population monitoring methods described below will be included in the Management Plan. AMGR population census and plant vigor statistics will be collected and analyzed for the DC Ranch reintroduction site each year. Because it has been demonstrated that AMGR populations vary substantially from year to year as a result of natural factors, it is important to compare reintroduced populations to the natural population. The monitoring methods will be similar to those employed for Phase 2 of the AMGR reintroduction project. This approach involves quantifying the reintroduced AMGR population and assessing population vigor and overall habitat conditions. The nearby natural population at the Contra Costa Water District's ('CCWD') Etchelet population will also be monitored as part of the project, for the purposes of comparing the natural population and habitat conditions to those of the reintroduced site within the Ranch during each year. Other reintroduced populations would also be monitored. All species-specific monitoring activities conducted by VNLC will be funded through the BOR award.

Table 1. DC Ranch Project Budget Worksheet						
BUDGET ITEM DESCRIPTION	**$/UNIT**	**QUANTITY**	**BOR FUNDING**	**ALOSF FUNDING**	**PROJECT TOTALS**	**COMMENTS**
1. SALARIES AND WAGES						
Jake Schweitzer (Senior Botanist)	$125/hr	70	$ 8,750.00	$ -		
Roxanne Foss (Senior Ecologist)	$125/hr	30	$ 3,750.00	$ -		
Staff Ecologist(s)	$90/hr	70	$ 6,300.00	$ -		
Land Transaction Specialist	$90/hr	80	$ -	$ 7,200.00		
Jackie Flatt (Conservation Director) (Legal Counsel)	$225/hr	12.5	$ -	$ 2,812.50		
Al Jahns (Outside Legal Counsel)	$435/hr	25	$ -	$ 10,875.00		
TOTAL		**287.5**	**$18,800**	**$20,887.50**	**$39,687.50**	
2. TRAVEL						
Travel to site (3 trips)	$0.655/mile	326	$ 286.00	$ -		
Travel to site (3 trips)	$0.655/mile	546	$ -	$ 358.00		
TOTAL		**872**	**$ 286.00**	**$ 358.00**	**$ 644.00**	
3. SUPPLIES AND MATERIALS						
Project Signage	$300/sign	1	$ -	**$ 300.00**	**$ 300.00**	
4. EASEMENT MONITORING						
Stewardship Endowment Fund	$59,300/endowment fund	1	$ -	$ 59,300.00		Estimate, updated following Baseline Conditions Report
Easement Defense Fund	$10,000/defense fund	1	$ -	$ 10,000.00		Greater of 0.5% easement value or $10,000 (paid in escrow)
TOTAL		**2**	**$ -**	**$ 69,300.00**	**$ 69,300.00**	
5. CONSERVATION SERVICE COSTS						
Appraisal	$10,000/appraisal	2	$ 12,000.00	$ 8,000.00		
Baseline Conditions Report (BCR)	$6,500/BCR	1	$ -	$ -		
Phase 1 Environmental Site Assessment (ESA)	$5,500/ESA	1	$ 5,000.00	$ 500.00		
Title & Escrow Closing Costs	$8,000/title & escrow	1	$ 8,000.00	$ -		
Mineral Remoteness Assessment (MRA) (if required)	$2,000/MRA	1	$ -	$ 2,000.00		Estimate, Landowner not sure if they own mineral rights
CRT Administration	N/A	N/A	$ -	$ 7,965.00		Estimated as 15% of total conservation service costs
A-133 Federal Audit (if required)	$1,500/Audit	1	$ -	$ 1,500.00		
Capacity Contribution	$25,000/Transaction	1	$ -	$ 35,000.00		Greater of 2.0% easement value or $35,000 (paid in escrow)
TOTAL		**7**	**$ 25,000.00**	**$ 54,965.00**	**$ 79,965.00**	
6. CONSERVATION EASEMENT SALE						
Conservation Easement Sale	$1,500/acre	120	$ 180,000.00	$ -	**$ 180,000.00**	
TOTAL PROJECT COSTS			**$ 224,086.00**	**$ 145,810.50**	**$ 369,896.50**	

EXHIBIT A

Table 2. Stewardship Endowment Fund Budget Worksheet

DC Ranch
120.00 Acres
STEWARDSHIP ENDOWMENT
CONFIDENTIAL
DRAFT

Original:	*5-Feb-20*
Revision #1:	*mm/dd/yy*
Revision #2:	*mm/dd/yy*
Revision #3:	*mm/dd/yy*
Final:	*mm/dd/yy*

Calendar:		*2023*	*2024*	*2025*	*2026*	*2027*	*2028*	*2029*	*2030*	*2031*	*2032*		
Annual Monitoring Costs		**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Year 6**	**Year 7**	**Year 8**	**Year 9**	**Year 10**	***Total***	***Average***
Labor - Site Visit		$ 486.00	$ 486.00	$ 486.00	$ 486.00	$ 486.00	$ 486.00	$ 486.00	$ 486.00	$ 486.00	$ 486.00	***$ 4,860.00***	***$ 486.00***
Labor - CRT Stewardship Report Preparation		$ 180.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	***$ 990.00***	***$ 99.00***
Labor - Funding Agency Report Preparation		$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	***$ 900.00***	***$ 90.00***
Labor - Communication & Administration		$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	$ 90.00	***$ 900.00***	***$ 90.00***
Labor - Management & Review		$ 225.00	$ 225.00	$ 225.00	$ 225.00	$ 225.00	$ 225.00	$ 225.00	$ 225.00	$ 225.00	$ 225.00	***$ 2,250.00***	***$ 225.00***
Labor - Subcontractor		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	***$ -***	***$ -***
Field Materials		$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	$ 20.00	***$ 200.00***	***$ 20.00***
Office Supplies, Printing		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	***$ -***	***$ -***
Mileage		$ 119.21	$ 119.21	$ 119.21	$ 119.21	$ 119.21	$ 119.21	$ 119.21	$ 119.21	$ 119.21	$ 119.21	***$ 1,192.10***	***$ 119.21***
Travel Expenses		$ 18.00	$ 18.00	$ 18.00	$ 18.00	$ 18.00	$ 18.00	$ 18.00	$ 18.00	$ 18.00	$ 18.00	***$ 180.00***	***$ 18.00***
Replace Project Sign		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 300.00	***$ 300.00***	***$ 30.00***
Insurance - General Liability		$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	$ 150.00	***$ 1,500.00***	***$ 150.00***
Insurance - Terrafirma		$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00	$ 50.00	***$ 500.00***	***$ 50.00***
Subtotal Annual Monitoring Costs		*$ 1,428.21*	*$ 1,338.21*	*$ 1,338.21*	*$ 1,338.21*	*$ 1,338.21*	*$ 1,338.21*	*$ 1,338.21*	*$ 1,338.21*	*$ 1,338.21*	*$ 1,638.21*	***$ 13,772.10***	***$ 1,377.21***
Contingency Costs													
Contingency Costs	10.00%	$ 142.82	$ 133.82	$ 133.82	$ 133.82	$ 133.82	$ 133.82	$ 133.82	$ 133.82	$ 133.82	$ 163.82	***$ 1,377.21***	***$ 137.72***
Subtotal Monitoring Costs with Contingency		*$ 1,571.03*	*$ 1,472.03*	*$ 1,472.03*	*$ 1,472.03*	*$ 1,472.03*	*$ 1,472.03*	*$ 1,472.03*	*$ 1,472.03*	*$ 1,472.03*	*$ 1,802.03*	***$ 15,149.31***	***$ 1,514.93***
Administrative Costs													
General & Administrative Costs	24.00%	$ 377.05	$ 353.29	$ 353.29	$ 353.29	$ 353.29	$ 353.29	$ 353.29	$ 353.29	$ 353.29	$ 432.49	***$ 3,635.83***	***$ 363.58***
Total Costs		***$ 1,948.08***	***$ 1,825.32***	***$ 1,825.32***	***$ 1,825.32***	***$ 1,825.32***	***$ 1,825.32***	***$ 1,825.32***	***$ 1,825.32***	***$ 1,825.32***	***$ 2,234.52***	***$ 18,785.14***	***$ 1,878.51***

Endowment	***3.50%***	***$ 53,671.84***
Three Year Start-up		***$ 5,598.72***
Round Up to Nearest $100		***$ 29.44***
TOTAL ENDOWMENT		***$ 59,300.00***

Budget Assumptions and Explanation: (change gray highlighted cells)

Labor – Site Visit	**Hrs Prep**	**Hrs Site Visit**	**Hrs RT Travel**	**Break Hrs**	**Total Hrs**	**$/Hr**		**Total $**	Time & rate for annual site visit, including 1.00 hour for site visit preparation, 1.50 hours for the site visit, 2.90 hours for round-trip (RT) travel and 0.00 hours for break periods during driving.
	1.00	1.50	2.90	0.00	5.40	$ 90.00		$ 486.00	
# Trips/Yr:	1				**$/Hr Overtime:**	$ 135.00		$ -	Break Period: 15 minutes Every: 2 hours
Labor – CRT Stewardship Monitoring Report Preparation	**Yr 1 Hrs**	**Yrs 2+ Hrs**			**$/Hr**	**Total $ Yr 1**		**Total $ Yrs 2+**	Time & rate to prepare annual stewardship monitoring report.
	2.00	1.00			$ 90.00	$ 180.00		$ 90.00	
Quantity:	0	0	0		1	**$/Hr**		**Total $**	Time & rate to prepare funding agency reports. No agency reports if CE is a donation. Choose the type(s) of agency report; NRCS & DOC = 1 page summary report, Pre-2008 WCB = public summary, Lazy K = summary with biology, Post-2008 WCB = complete monitoring report.
Labor - Funding Agency Report Preparation	**1 Page Report**	**Public Summary**	**Summary Report with Biology**		**Full Report**				
Hours:	0.50	2.00	4.00		1.00	$ 90.00		$ 90.00	
Labor - Communications & Administration	**Hrs**					**$/Hr**			Time & rate for emails, letters, archiving, filing, etc.
	1.00					$ 90.00		$ 90.00	
Labor - Management & Review	**Hrs Mgmt**					**$/Hr**		**Total $**	Time & rate to manage project & review stewardship monitoring and funding agency reports. Time for annual stewardship allocation & audit.
	1.00					$ 225.00		$ 225.00	
Labor - Subcontracted Specialty Labor	Yr 1: $0.00	Yr 2: $0.00	Yr 3: $0.00	Yr 4: $0.00	Yr 5: $0.00			**10-Yr Total $**	Explain scope & frequency:
	Yr 6: $0.00	Yr 7: $0.00	Yr 8: $0.00	Yr 9: $0.00	Yr 10: $0.00			$ -	
Field Materials	**Visit Yr 1**	**Visit Yrs 2+**				**Total $ Yr 1**		**Total $ Yrs 2+**	Two iPads & power bank ($8/year assuming 3-year lifespan), camera and GPS unit as backup, photo location markers, note cards and pads, maps, etc.
	$ 20.00	$ 20.00				$ 20.00		$ 20.00	
Office Supplies, Printing								**Total $**	None, electronic submission of annual monitoring report to landowner and agencies and electronic storage of report at CRT in cloud on Landscape and on server.
								$ -	
Mileage	**RT Miles**	**$/Mile**						**Total $**	Round trip (RT) mileage from CRT office to the site at the federal 2020 IRS mileage rate (https://www.irs.gov/newsroom/irs-issues-standard-mileage-rates-for-2020).
	182.0	$ 0.655						$ 119.21	
Travel Expenses	Quantity:	0	1	0	0	0		**Total $**	Regional per diem (PD) components from the federal 2020 GSA PD rates for California (https://www.gsa.gov/travel/plan-book/per-diem-rates). Lodging includes hotel tax. Meal PD includes tip. Incidental = fees & tips given to porters, baggage carriers and hotel staff.
	GSA Region	**$/Breakfast**	**$/Lunch**	**$/Dinner**	**$/Incidental**	**$/Day Lodging**		$ 18.00	
	Alameda	$ 17.00	$ 18.00	$ 34.00	$ 5.00	$ 215.46			
Replace Project Sign	**Size, Type & Base**							**Total $**	ImageLOC sign; choose size, single or double sided & with or without powder coated aluminum alloy base (10-yr warranty).
	24"x36" one-sided							$ 300.00	
Insurance Costs								$ 150.00	The variable cost to add a property to our insurance policy = $150 per project.
Terrafirma								$ 50.00	The annual project premium to keep a project enrolled in the risk pool = $50.
Administrative Costs (24.00%)	The nationwide standard recommended by Center for Natural Lands Management under their system known as Property Analysis Record (PAR) is to calculate administrative costs at 24% of the annual total cost including the contingency.								
Contingency Costs (10.00%)	This includes occasional deployment of specialized expertise and other unforeseen expenses to occur approximately once every 10 – 20 years.								
Endowment (3.50%)	The endowment is calculated on the amount that an investment will yield to produce interest equal to the average cost of annual monitoring over 10 years, net of inflation (6.8% return - 3.3% inflation = 3.5%).								
Three Years Start Up	This is payment in advance for the first three years of monitoring to give the endowment a chance to generate a full year's income in these years where recent historical returns have been well below the anticipated 6.8% future return rate.								

APPENDIX A

Landowner Letter of Support

August 28, 2023

RE: ALTAMONT LANDFILL OPEN SPACE FUND (ALOSF)_GRANT PROPOSAL LETTER OF SUPPORT

To Whom It May Concern,

By this letter, I grant authorization for the California Rangeland Trust (CRT), Vollmar Natural Lands Consulting, Inc. (VNLC), the Altamont Landfill Open Space Fund (ALOSF), and the United States Bureau of Reclamation to proceed with initial planning efforts for the establishment of a conservation easement on my property, the Dirrane (DC) Ranch. DC Ranch encompasses 160 acres and is located at 16980 Tesla Road, Livermore, California, 94550. The Alameda County assessor's parcel number is: 99A-2200-1-25.

In 2015, Mr. Schweitzer, of VNLC, established two populations of the very rare and endangered large-flowered fiddleneck on my property, and the species has flourished since then, merging into a single, large, and self-perpetuating population. More recently, I applied for and obtained an NRCS grant that allowed me to install livestock fencing and other infrastructure in a manner that would allow for optimal habitat management of the plant. I currently manage my property as a livestock and horse ranch and intend to continue to manage my property in a way that is generally conducive to native plants and animals, and that also reduces the potential for wildfire. My understanding is that this type of management is what is required for the protection of large-flowered fiddleneck.

I intend to permanently protect the majority of my property as open space and working rangeland. Assuming a fair market price, I am willing to consider selling a conservation easement, which includes the permanent protection of open space rangeland and large-flowered fiddleneck as high priorities.

This letter does not serve as final authorization to sell a conservation easement, but rather to initiate the process of acquiring funds to do so. I understand that changes to portions of the property included in any conservation easement would be limited per the terms of a conservation easement agreement, and that an easement stewardship manager would be required to monitor my land use, subject to any easement, on an annual basis—I am told this involves approximately one site visit per year. This assessment would also include long-monitoring of the fiddleneck population.

I do intend to set aside some portion(s) of my property as building envelopes, in order to allow some flexibility for my family members to develop portion(s) of the property in the future. Mr. Schweitzer, members of my family, and others will assist me in identifying areas to include in the conservation easement versus areas to set aside as building envelopes.

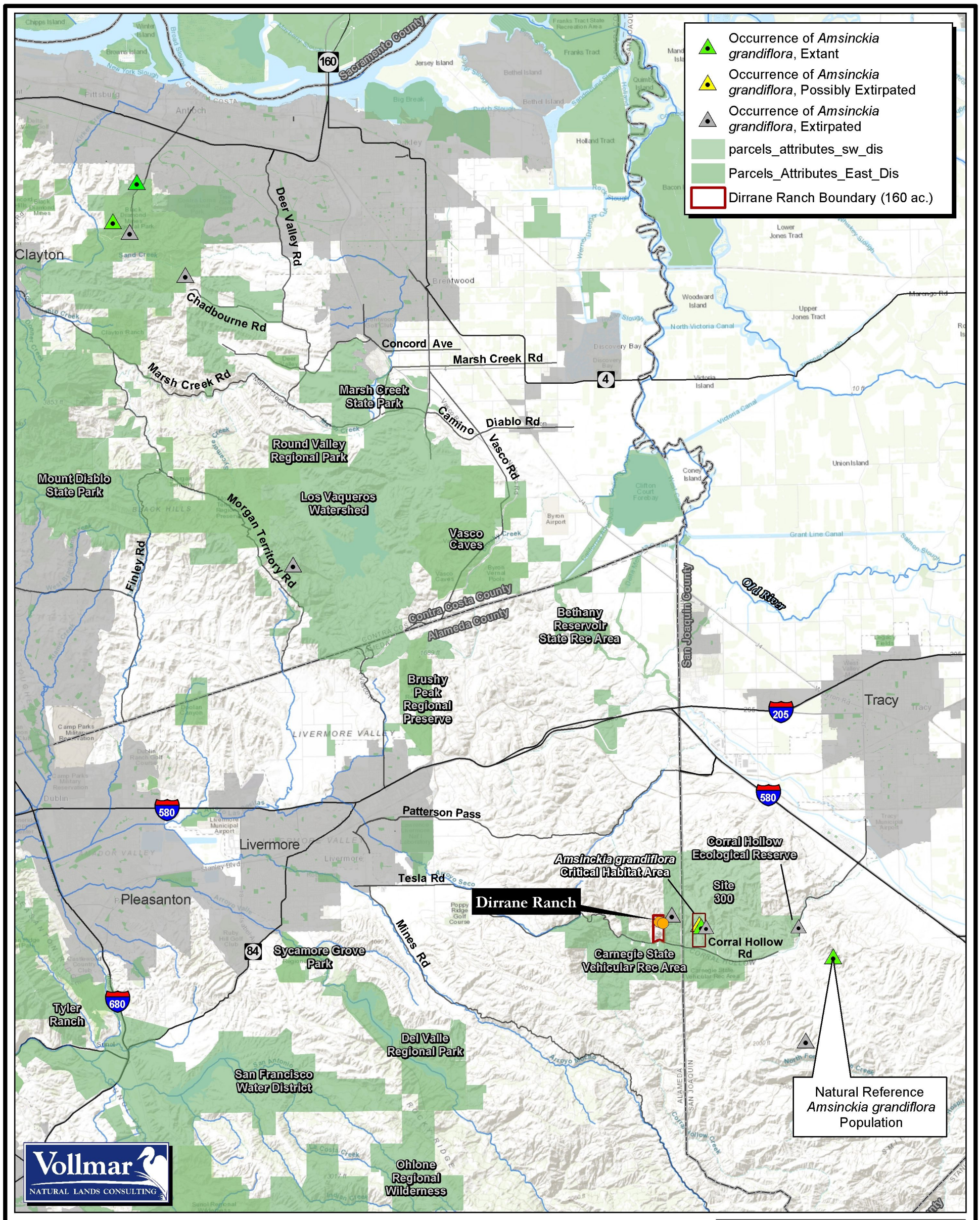
Sincerely,



Jeannine Dirrane, Dirrane Ranch Landowner

APPENDIX B

Map Figures



Legend

- Dirrane Ranch *Amsinckia grandiflora* Reintroduction Site
- Stream or River
- Highway or Major Road
- Public or Preserve Lands
- County Boundary

FIGURE 1
Vicinity Map

Contra Costa, Alameda, and San Joaquin Counties, California

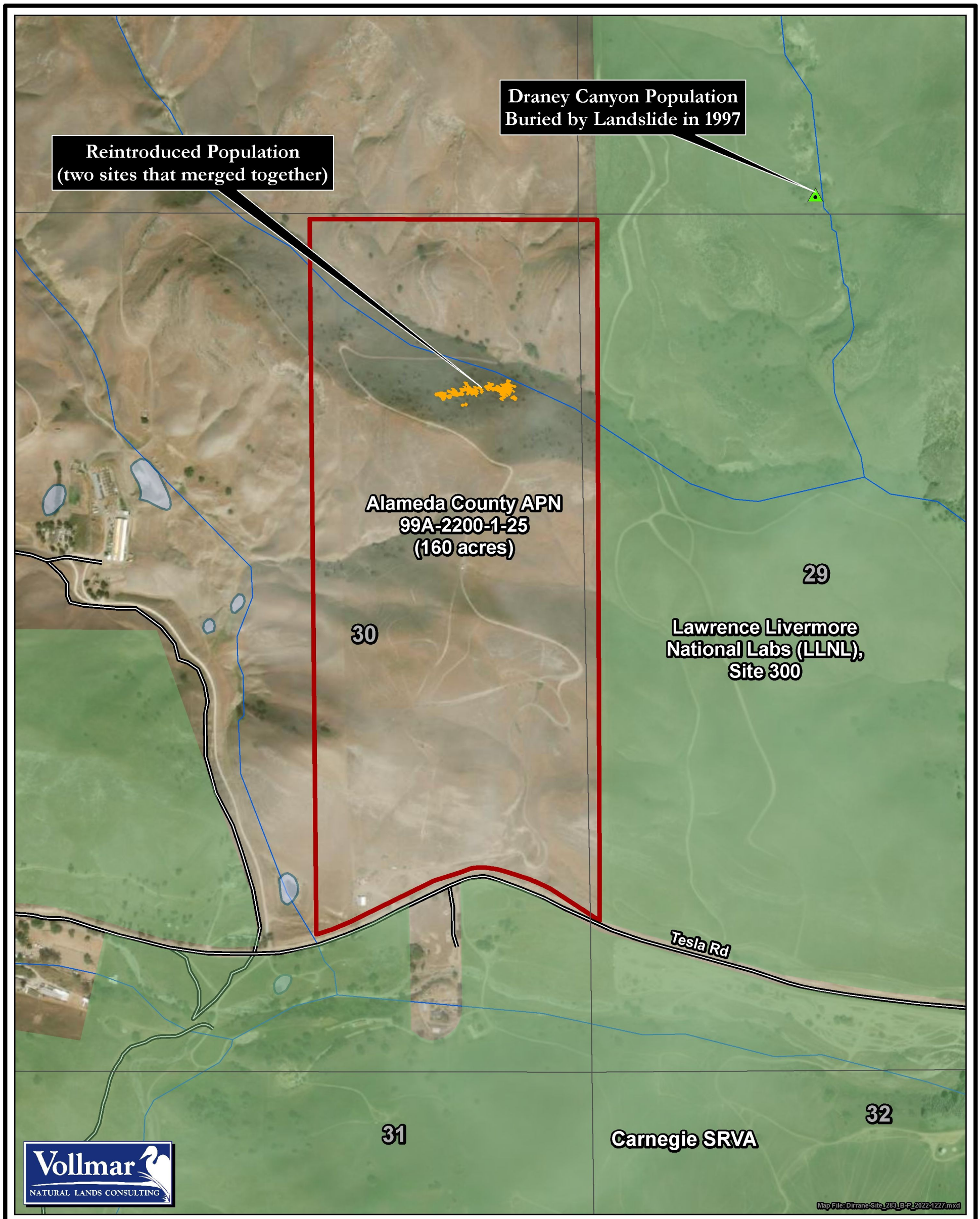
N W E S

1:190,080
(1 inch = 3 miles at tabloid layout)

0 1 2 4 KM
0 1 2 4 Miles



Data Sources: CNDDB, 2022 | VNLC 2021 | Gap, 1998
USGS, Various | TIGER, 2010 | SFEI, 2017 | CPAD, 2010
GIS/Cartography by R. Miller, December 2022
Map File: Vicinity_Dirrane_283_B-P_2022_1229



Legend

- Historical Occurrence of *Amsinckia grandiflora*
- Stream
- Dirrane Ranch Population of *Amsinckia grandiflora* (2021)
- Dirrane Ranch Boundary (160 ac.)
- Section Boundary (see Section labels)
- Public or Preserve Lands
- Wetland or Water Body (NWI)

FIGURE 2
Dirrane Ranch and *Amsinckia grandiflora* Population

Alameda County, California

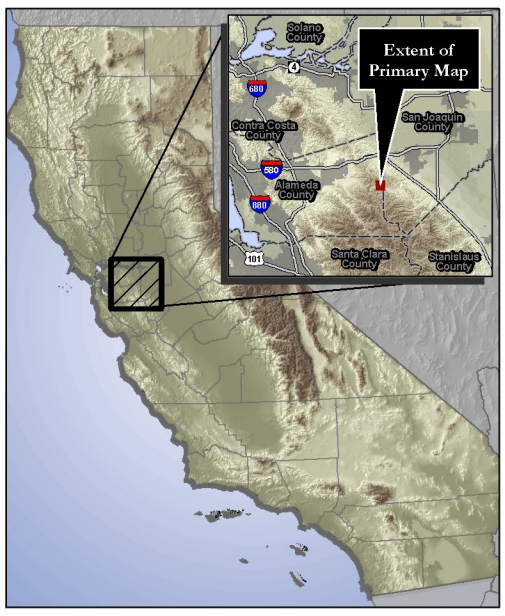
N
W E
S

1:7,200

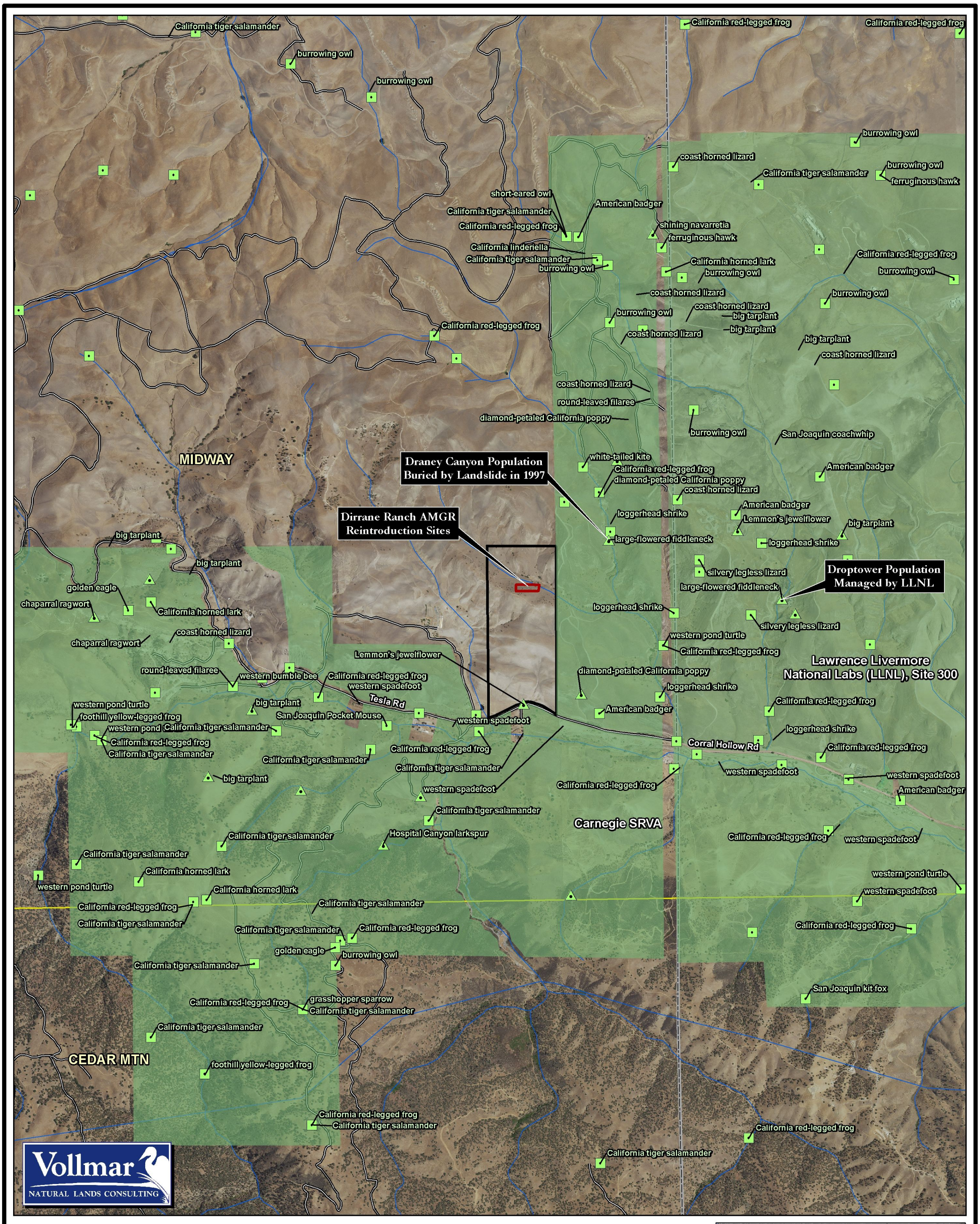
(1 inch = 600 feet at tabloid layout)

0 150 300 Meters

Feet 0 600 1,200



Data Sources: CNDDB, 08/2012 | VNLC, 2021
USGS, Various | TIGER, 2010
San Joaquin County, 2013 | Digital Globe, 2013
Gap, 1998 | DWR, 2001 | USDA, 2012
Map File: Dirrane-Site_283_B-P_2022-1229.mxd



Legend

- CNDDB Special-status Animal
- CNDDB Special-status Plant
- Road
- Stream
- Dirrane Property Boundary (160 ac.)
- Public or Preserve Lands
- USGS Quadrangle Boundary
- Alameda-San Joaquin County Boundary

Note: Entire property is within CRF and AWS designated critical habitat

Data Sources: CNDDB, 2022 | VNLC, 2021
USGS, Various | TIGER, 2010
Alameda County, 2013 | USDA NAIP, 2014
Gap, 1998 | DWR, 2001 | USDA, 2012
Map File: Dirrane-CNDDB_283_B-P_2022-1230

FIGURE 3
CNDDB Map

Alameda County, California

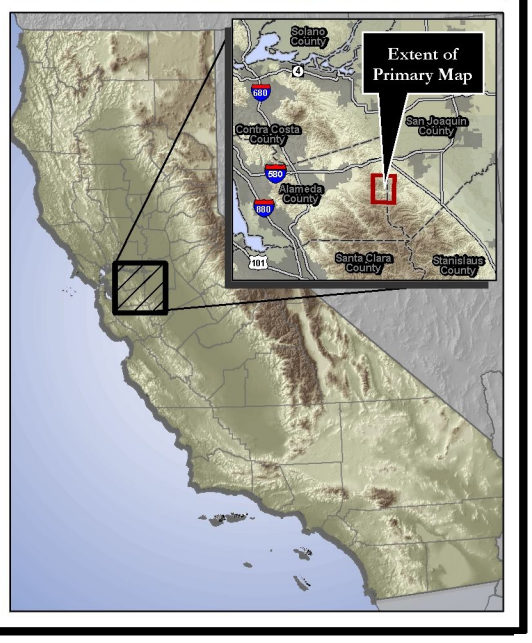
N
W E
S

1:30,000

(1 inch = 2,500 feet at tabloid layout)

0 0.25 0.5 1 Kilometers

0 0.5 1 Miles



APPENDIX C

Representative Site Photographs



Photo 1: Dirrane Ranch reintroduction site prior to AMGR reintroduction in 2015

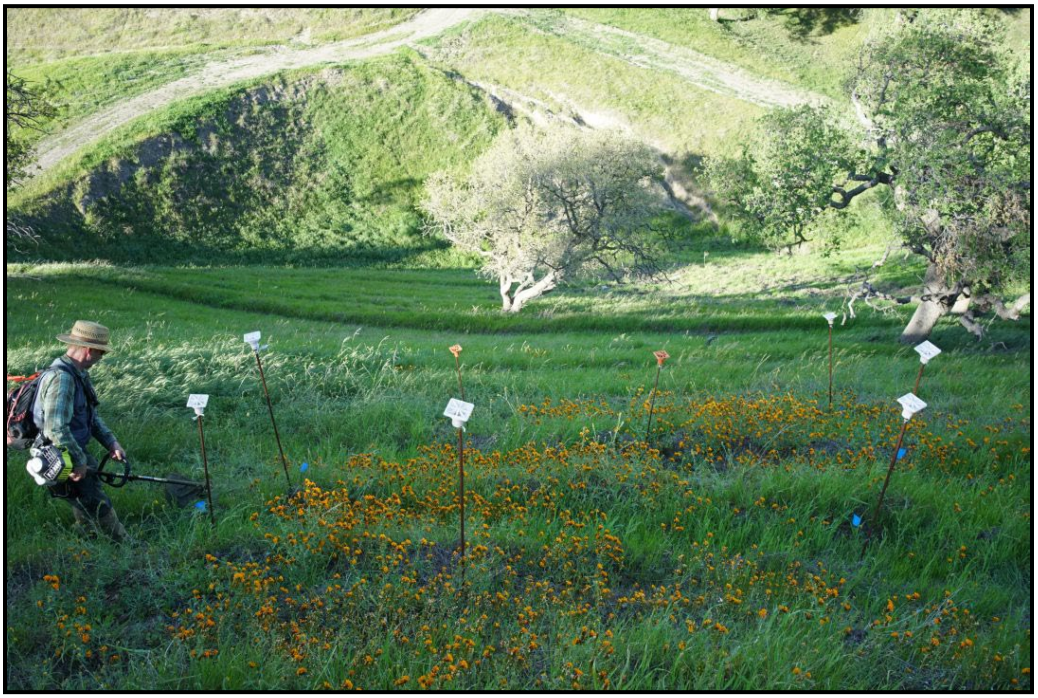


Photo 2: Weed whipping at Dirrane Ranch during AMGR reintroduction project, March 2018



Photo 3: Representative monitoring photograph, Dirrane Ranch reintroduction site



Photo 4: Site overview photograph, Dirrane Ranch reintroduction site



Photo 5: California tiger salamander documented on the Ranch by the Landowner



Photo 6: Representative photograph of grazing cattle on the Ranch

APPENDIX A

Landowner Letter of Support

August 28, 2023

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Sincerely,



Jeannine Dirrane, Dirrane Ranch Landowner

APPENDIX D

Standard Agricultural Conservation Easement Agreement

Recording requested by and when recorded mail to: CALIFORNIA RANGELAND TRUST 3900 Lennane Drive, Suite 210 Sacramento, CA 95834	***Note: California Rangeland Trust's Easement Template is not a one size fits all document. Certain terms are negotiable. We strongly encourage open dialogue on all Easement terms as well as recommend you to seek legal counsel early in the Easement drafting process.***

Space above this line for Recorder's use.

APNs:

DEED OF AGRICULTURAL CONSERVATION EASEMENT AND VOLUNTARY AGREEMENT CREATING ENFORCEABLE RESTRICTIONS IN PERPETUITY

This Deed of Agricultural Conservation Easement and Voluntary Agreement Creating Enforceable Restrictions in Perpetuity ("**Easement**") is granted as of the Effective Date (as defined in Section 43 hereof) by _____ ("**Landowner**"), to the CALIFORNIA RANGELAND TRUST, a California nonprofit public benefit corporation ("**Rangeland Trust**"). Landowner and Rangeland Trust are each referred to herein, individually, as a "Party" and, collectively, as the "**Parties**."

Recitals

A. Landowner is the sole owner in fee simple of certain real property consisting of approximately _____ acres, located in _____ County, California, as further described in **Exhibit A** attached hereto and incorporated herein by reference ("**Easement Area**") and depicted in **Exhibit B** attached hereto and incorporated herein by reference ("**Easement Area Map**"). Landowner desires to grant a conservation easement over the Easement Area.

B. Rangeland Trust is a "qualified conservation organization" as defined by Section 170(h)(3) the Internal Revenue Code and is eligible to hold this Easement pursuant to Section 815.3 of the California Civil Code. As certified by resolution of its governing body, Rangeland Trust accepts the responsibility of monitoring and enforcing the terms of this Easement and upholding the Conservation Purposes (as defined in Section 1 hereof). Rangeland Trust is accredited by the Land Trust Accreditation Commission.

C. The Easement Area consists of ***[general description of property to follow. Articulate conservation values]***.

D. Landowner desires to convey for valuable consideration ***[Donated easement: make a charitable gift of]*** the Easement to Rangeland Trust to assure that the rangeland environment, agricultural productivity, open space created by working landscapes, the plant, **[*fish*],** and wildlife

habitat and watersheds will be conserved and sustained forever through managed grazing and as otherwise provided herein (referred to herein as the "**Conservation Values**"), and that uses of the land that are inconsistent with these Conservation Values will be prevented or corrected.

E. The grant of this Easement will further the policy purposes of the following clearly delineated governmental conservation policies ***[Review Note: Confirm which paragraphs are applicable to the specific project and add recitals required by relevant funding source.]***:

> Section 815 of the California Civil Code, in which the California Legislature has declared: (1) that "the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California"; and (2) that it is "in the public interest of this state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations";
>
> Section 821 of the California Food and Agriculture Code, which states that one of the major principles of the State's agricultural policy is "to sustain the long-term productivity of the State's farms by conserving and protecting the soil, water, and air, which are agriculture's basic resources";
>
> Section 51220 of the California Government Code, in which the California Legislature has declared that "in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands . . . constitutes an important physical, social, esthetic and economic asset to existing or pending urban or metropolitan developments"; and
>
> ***[Review Note: The following recital must be confirmed in each transaction.]*** The _____ County General Plan, as amended in ____, which includes as one of its goals to protect all viable farmlands designated as prime, of statewide importance, unique, or of local importance from conversion to and encroachment of non-agricultural uses.

F. All holders of liens or other encumbrances upon the Easement Area, except the holders of the approved encumbrances listed in **Exhibit C** attached hereto an incorporated herein by reference, have agreed to subordinate their interests in the Easement Area to this Easement and to refrain forever from any action that would be inconsistent with its Conservation Purposes (as defined in Section 1 hereof).

G. ***[Review note: Insert mineral language if required.] [The probability that any third party holder of mineral rights in the Easement Area will extract or remove minerals from the Easement Area by surface mining has been determined by a qualified professional geologist to be so remote as to be negligible, as set forth in a report dated _____, by _____, State of California Registered Geologist No._____. A true and complete copy of the report has been provided to Rangeland Trust [Review Note: Third-party mineral rights will not necessarily be shown as an encumbrance but may appear as an exception to title.]***

G. The current agricultural, physical, and overall biological conditions of the Easement Area, as well as its current uses and state of improvement, are described in a Baseline Conditions Report (the "**Report**") prepared by Rangeland Trust with the cooperation of Landowner. The Report consists of a narrative, maps, photographs, and other documents, and is acknowledged by both Parties to be complete and accurate as of the date of this Easement. Both Landowner and Rangeland Trust have copies of this Report, which is incorporated herein by reference. It will be used by Rangeland Trust to assist in its monitoring and enforcement of Landowner's compliance with this Easement. This Report, however, is not intended to preclude the use of other evidence to establish the baseline condition of the Easement Area if there is a controversy over some aspect of that condition.

H. The Parties intend that the Conservation Purposes of this Easement (as defined in Section 1 hereof) shall be achieved through continued ranching and managed grazing activities to sustain and protect the Conservation Values of the Easement Area. The Parties recognize, however, that additional agricultural uses of the Easement Area may become reasonably necessary to support the economic viability of commercial ranching within the Easement Area and accordingly provide herein for such additional uses.

I. Rangeland Trust recognizes that the current conditions of the Conservation Values associated with the physical environment of the Easement Area exist because of the past stewardship of the Easement Area and depend on the future good stewardship decisions by Landowner and its successors. Landowner is entrusted with those future management decisions, and Rangeland Trust is entrusted with ensuring that the Conservation Values remain protected.

Deed and Agreement

In consideration of the recitals set forth above, and in consideration of their mutual promises and covenants, Landowner hereby grants and conveys to the Rangeland Trust, its successors and assigns, and Rangeland Trust hereby accepts, a perpetual conservation easement as defined by Section 815.1 of the Conservation Easement Act of 1979 (California Civil Code, Section 815 *et seq.*), of the nature and character described in this Easement.

1. **Purposes.** The purposes of this Easement are to identify, sustain and forever protect the Conservation Values from impairment ("**Conservation Purposes**"). The Parties agree that the Conservation Purposes shall be achieved through continued ranching, managed grazing, and other allowed agricultural uses on the Easement Area as herein provided. The Parties agree that Landowner's retention of certain rights specified in this Easement, including specified agricultural, residential, recreational, and commercial uses, is consistent with the Conservation Purposes, provided that those rights are exercised in accordance with this Easement. The Parties further agree that some intensification of and changes in the current agricultural uses, as hereinafter authorized, may serve to promote the continuing commercial viability of the agricultural uses of the Easement Area and thus assist in achieving the Conservation Purposes. ***[Changes to the purposes clause may be required to conform to the specific funding program.]***

Under this Easement, impairment of Conservation Values means a material adverse change in Conservation Values. The evaluation of the actual and potential impacts of a particular activity or use on Conservation Values shall take into account the impacts of the activity or use in question, as well as the cumulative impacts of other uses and activities on the Easement Area. In every evaluation of whether impairment of Conservation Values has occurred or is threatened, both the magnitude and the duration of the actual or potential change(s) shall be considered.

2. **Written Notice and Approvals.** When Landowner is required to obtain Rangeland Trust's written approval ("**Written Approval**") or to provide Rangeland Trust with written notice of a proposed action ("**Written Notice**"), such notice, demand, request, consent, approval, or communication shall be in writing and delivered pursuant to Section 32 hereof. Landowner's obligation to bear the costs associated with Rangeland Trusts review and approval of both Written Approval and Written Notice is set forth in Section 40 hereof.

(a) Landowner's Obligation. In each Written Notice or request for Written Approval, Landowner shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to allow Rangeland Trust to make an informed judgement as to its consistency with the Conservation Purposes.

(i) Written Notice When No Written Approval Is Required. Unless otherwise stated herein, whenever a Written Notice is required pursuant to the terms of this Easement for an action by Landowner that does not require a Written Approval, Landowner shall notify Rangeland Trust in writing not less than thirty (30) days prior to the date Landowner intends to undertake the activity or use in question, unless a longer advance notice period is specifically required herein in connection with a particular activity or use. Landowner's Written Notice does not limit Landowner's obligations to comply fully with the terms of this Easement and the protection of the Conservation Values in undertaking or authorizing the activity or use described in the Written Notice.

(ii) Written Notice When Written Approval Is Required. Unless otherwise stated herein, whenever the Landowner is expressly required to obtain Rangeland Trust's Written Approval, Landowner shall send a Written Notice to Rangeland Trust not less than sixty (60) days prior to the date Landowner desires to undertake or authorize the activity or use in question and obtain Rangeland Trust's Written Approval prior to undertaking taking or authorizing such activity or use.

(iii) No Written Notice or Written Approval Necessary. Where "**without further permission**" is stated, neither Written Notice nor Written Approval is required and an activity or use so allowed by this Easement shall not be prohibited unless it results, or threatens to result, in the impairment of Conservation Values.

(b) Rangeland Trust's Approval Obligations. Upon receiving a Written Notice requesting Written Approval for a proposed use, Rangeland Trust shall use its sole reasonable discretion to determine in good faith, if the proposed use is consistent with the Conservation Purposes and not prohibited under Section 3 hereof. Rangeland Trust shall reply to Landowner's notification within sixty (60) days and explain its determination within that time. If Rangeland Trust reasonably determines that more than sixty (60) days is necessary for Rangeland Trust to

evaluate the request for Written Approval, Rangeland Trust shall provide Written Notice to Landowner specifying the additional time needed. If Rangeland Trust fails to respond to Landowner within sixty (60) days of receipt of a Written Notice, or within the additional time specified by Rangeland Trust in a Written Notice, then the proposed activity shall be deemed approved by Rangeland Trust. In making any decision requiring Written Approval, Rangeland shall take into account: (a) whether Landowner has made all particular demonstration(s) in support of Landowner's request required under the Easement; (b) the actual and potential impacts of the particular requested activity or use on Conservation Values; and (c) the cumulative impacts of other uses and activities on the Easement Area.

3. **Prohibited Acts.** Landowner shall not perform, or knowingly allow others to perform, any act or use on or affecting the Easement Area in conflict with the other covenants and restrictions set out in this Easement, including but not limited to any act or use that may result in impairment of Conservation Values. Landowner authorizes Rangeland Trust to enforce Landowner's covenants. Nothing in this Easement shall require Landowner to take any action to restore the condition of the Easement Area caused by: (a) any Act of God or other event over which Landowner has no control; (b) any prudent action taken by Landowner under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Area or to any person resulting from such causes; or (c) the non-authorized acts of unrelated third parties so long as Landowner has taken reasonable steps to control such acts. Landowner understands and agrees that nothing in this Easement relieves it of any obligation or restriction in relation to the development or other uses of the Easement Area imposed by law, including but not limited to local land use restrictions.

4. **Construction of Buildings, Facilities and Other Structures.** The construction or reconstruction of any building, structure, or other facility of any type is prohibited except in accordance with this Section.

(a) Incidental Ranch Facilities.

(i) "Incidental Ranch Facilities" consist of non-building facilities used in normal and customary ranching and farming activities, including corrals, holding fields, squeezes, loading chutes, equipment loading ramps, fences, water distribution and irrigation facilities, and utility facilities (including gas, electrical, and telecommunication facilities), primarily to support uses of or activities on the Easement Area authorized by this Easement.

(ii) Incidental Ranch Facilities may be constructed, repaired or replaced without further permission.

(iii) Stock ponds may be constructed, repaired or replaced without further permission.

(b) Non-Residential Buildings, Structures, and Other Facilities for Authorized Uses or Activities.

(i) For any non-residential building, structure or facility existing as of

the Effective Date, Landowner may enlarge each (by not more than a cumulative fifty percent (50%), repair, or replace with a like building, structure, or facility at its existing location without further permission.

(ii) For any new non-residential building, structure, or facility, or for any enlargement greater than a cumulative fifty percent (50%), Landowner must first obtain Written Approval, in support of which Landowner must demonstrate that the proposed construction or enlargement is reasonably necessary to support authorized uses of the Easement Area.

(iii) Enlargement shall be determined based upon the size of the building, structure, or facility on the Effective Date.

(c) Residential Dwellings.

(i) The _____existing single-family residential dwellings and appurtenant structures may be repaired, enlarged (each by not more than a cumulative fifty percent (50%), or replaced at their current locations without further permission. Enlargement shall be determined based upon the size of the building, structure or facility on the Effective Date.

(ii) _____ new single-family residential dwelling(s) and appurtenant structures may be constructed in the residential building envelope designated on **Exhibit B** without further permission ***[See CRT Housing Threshold Guidelines]***.

(iii) The boundaries and location of the residential building envelope may be adjusted with Written Approval; *provided*, that the size of the residential building envelope shall not be allowed to be increased.

(d) Ranch Labor Housing.

(i) For any dwelling structure existing on the Effective Date and used to house persons hired for work on the Easement Area, Landowner may remove, repair, enlarge (by not more than a cumulative fifty percent (50%), or replace at its existing location with a like housing unit without further permission. Enlargement shall be determined based upon the size of the structure on the Effective Date.

(ii) New dwelling structures, to be used solely to house persons hired for work on the Easement Area may be built only with Written Approval, in support of which Landowner must demonstrate that the proposed structure is reasonably necessary to support existing or imminent agricultural operations on the Easement Area.

(iii) Written Approval is necessary for any changes to the use of a dwelling structure originally built to house persons hired for work on the Easement Area.

(e) Utilities for Residential and Other Authorized Structures. The installation of new, or extension or repair of existing utilities (including, without limitation, water, sewer,

septic tanks and systems, power, fuel, and communication lines and related facilities) is authorized without further permission as reasonably necessary to service all residential uses and other structures and improvements that are authorized in this Easement.

(f) Signs.

(i) No commercial billboards shall be erected on the Easement Area. Without further permission, signs are allowed for the purposes of denoting the names and addresses of residents on the Easement Area, denoting allowable business uses, describing other authorized activities on the Easement Area, posting the property for sale or rent, identifying the Easement and its participants, and posting the property to control unauthorized entry or use.

(ii) Landowner shall purchase and install a sign to be placed on the Easement Area that identifies this Easement, the name of the ranch, the landowner's name (if desired), Rangeland Trust, and indicates the participation of any of Rangeland Trust's public or private funding sources in the acquisition and maintenance of the Easement. Rangeland Trust will maintain and replace the sign, as necessary, at Rangeland Trust's sole cost and expense. The size, location, number, text, and design of the signage shall be subject to the approval of Landowner and Rangeland Trust, which approval shall not be unreasonably withheld, conditioned, or delayed.

5. **Subdivision.**

(a) Generally. Except as provided in this Section, subdivision of the Easement Area, whether by physical, legal, or any other process, is prohibited[; *provided*, however, that nothing herein shall be deemed, interpreted or construed to restrict Landowner from creating by any legal means a single legal parcel for the Easement Area]. Landowner shall continue to maintain the parcels comprising the Easement Area, and all interests therein, under common ownership, as though a single legal parcel.

(b) Lot Line Adjustments. **[Only insert in applicable transactions where the Easement was granted by multiple Landowners not owning the entirety of the Easement Area in common: [** Internal lot line adjustments between and among the ___ parcels comprising the Easement Area may be authorized with Written Approval (and the approval of Funder(s)) to enable Landowners to maintain or enhance agricultural practices or productivity on the Easement Area or otherwise enable the uses authorized by this Easement.**]**

[Insert if any portion of the easement value is donated: Boundary Line Adjustments. Pursuant to IRS Notice 2023-30, Grantor and Grantee agree that boundary line adjustments to the real property subject to the Easement may only be made pursuant to a judicial proceeding to resolve a bona fide dispute regarding a boundary line's location.]

6. ***[Insert if NRCS is providing Funding. Limitation on Impervious Surfaces. Adding will move numbering forward by one]***

7. **Development Rights.** Landowner agrees that all development rights, except as specifically reserved to Landowner herein within the Easement Area are extinguished and may not be used on or transferred to any portion of the Easement Area as it now or hereafter may be bounded and described, or to any other property, adjacent or otherwise. The Easement Area may not be used for the purpose of calculating permissible development or lot yield of any other property.

8. **Resource Stewardship**. In order to protect the Conservation Values, Landowner shall conduct all ranching and farming operations in accordance with good management practices that address soil and water conservation, erosion control, pest management, nutrient management, vegetation management, and habitat protection. Landowner and Rangeland Trust recognize that changes in economic conditions, weather cycles, grazing technologies, and conservation practices may dictate an evolution and adaptation in the management of the range and cropland resources of the Easement Area, consistent with the Conservation Purposes.

9. **Mining of Subsurface and Surface Minerals.** The provisions of this Section shall be interpreted in a manner consistent with Section 170(h) of the Internal Revenue Code, the Treasury Regulations adopted pursuant thereto, and any other successor provisions addressing the same subject**.**

(a) Surface Mining of Subsurface Minerals. The extraction or removal of any subsurface oil, gas, or other minerals by any surface mining method is prohibited.

(b) Other Mining Methods. The extraction or removal of any subsurface oil, gas, or other minerals by methods other than surface mining may be undertaken on the Easement Area only with Written Approval, in support of which Landowner must demonstrate to the reasonable satisfaction of Rangeland Trust that the proposed mineral extraction or removal will have at most a limited localized impact on the Easement Area and will not be irremediably destructive of significant conservation interests.

(c) Surface Rock, Gravel and Sand. Landowner may extract rock, sand, and gravel that is exposed at the surface of the Easement Area as of the Effective Date, or which becomes exposed at the surface of the Easement Area through natural processes after the Effective Date; *provided*, that any such extraction of rock, sand, or gravel shall be for use solely on the Easement Area in support of activity on or use of the Easement Area allowed under this Easement; *provided, further*, that such extraction shall be accomplished in a manner that does not impair any Conservation Values.

[Insert Forest Management language below if property has commercial timber and timber harvesting is consistent with the Conservation Values.]

10. Forest Management. Landowner reserves the right to manage the forest and harvest timber in accordance with all applicable state and federal forestry laws, practices, guidelines, and regulations, provided that said management and/or harvesting complies with the conditions of this Section.

(a) Commercial Timber Harvest. Where commercial timber harvesting has been identified as consistent with the Conservation Values, commercial timber harvesting may be authorized, provided that such timber harvest is conducted with a valid permit issued by CAL FIRE or successor agency and in a manner consistent with the Conservation Purposes and Values. Landowner shall provide Written Notice with copies of all documents regarding any government-required management plan, timber harvest plan, or similar harvest permit application prior to submission to the lead agency charged with approving said plan or amendment in order for Rangeland Trust to confirm that such plan, application, amendment or deviation is consistent with the terms of this Easement. For the purposes of this Easement, the term "commercial timber harvest" is defined as any timber harvest in which the product of such harvest is sold, traded, exchanged, or used off the Easement Area.

[For inclusion in all easements either as Section 10, 10(a), or 10(b)]

(b) Native Tree Cutting. Unless otherwise provided for in this Easement, living native trees on the Easement Area may only be cut to control or prevent insects and disease, mitigate fire risk, prevent bodily injury and property damage, and for on-site firewood without further permission. With Written Approval, living trees may also be cut for other personal uses including construction and repair of authorized buildings, structures and facilities on the Easement Area and,-to the extent necessary, to clear land for roads and authorized buildings, structures and facilities allowed under this Easement. Native trees may also be cut if in accordance with a management plan prepared in cooperation with CAL FIRE, California Department of Fish and Wildlife, Natural Resources Conservation Services, or similar agency and with Written Notice. This Section shall not apply to minor incidental taking of trees, non-native trees and brush, non-native invasive plants, the removal of dead trees, or orchards and/or tree farming on the Easement Area for agricultural purposes. In its sole and absolute discretion, Rangeland Trust may allow Landowner to cut trees under circumstances not anticipated by this Easement.

(c) ***[If property has forestland and state funding is utilized language to satisfy Civil Code 815.11 must be added.]*** The Landowner must develop an easement management plan whereby the Landowner agrees to: (1) maintain and improve forest health through promotion of a more natural tree density, species composition, structure, and habitat function; (2) make improvements that increase the land's ability to provide resilient, long-term carbon sequestration and net carbon stores as well as watershed functions; and (3) provide for retention of larger trees and a natural range of age classes, and ensure the growth and retention of these larger trees over time. (Format Section accordingly)]

11. **Road Construction, Maintenance and Paving**.

(a) Road Construction. New roads may be constructed on the Easement Area, with Written Approval, if they are necessary to carry out the agricultural operations or other authorized uses on the Easement Area.

(b) Road Maintenance. Roads existing at the Effective Date, as documented in the Baseline Report, or future roads permitted by this Easement or approved by Rangeland Trust, may be maintained without further permission. Notwithstanding the foregoing, existing and future

roads may not be significantly widened or improved unless doing so is necessary to carry out the agricultural operations or other allowed uses on the Easement Area and has Written Approval. For purposes of this Section, "improved" or "improving" does not include standard maintenance activities such as grading, creating water bars, maintaining and repairing culverts, or application of gravel or other pervious materials.

(c) Paving. Roads existing at the Effective Date, as documented in the Report, or future roads authorized by Rangeland Trust, may be paved with Written Approval. No other portion of the Easement Area presently unpaved shall be paved, except for roads subject to permits for development allowed by this Easement where improvement is required as a condition of a permit. For purposes of this Section, "pave", "paved", or "paving" shall include covering of the soil surface with concrete, asphalt or other impervious material. However, to make roads passable, Landowners may apply to existing or future roads a reasonable amount of gravel that is obtained from the Easement Area or from other sources.

(d) Unpaved Roads. Unpaved roads existing at the Effective Date, as documented in the Report, or future roads authorized by Rangeland Trust, may be relocated as unpaved roads as required by agricultural operations; *provided*, that abandoned roads must be returned to agricultural uses or a natural condition.

12. **Agricultural Intensification.**

[Note: The total amount of land converted from rangeland to other agricultural uses shall not exceed ten percent (10%) of the Easement Area. If at the time of Effective Date the Easement Area already contains acreage considered Agricultural Intensification, as defined below, such acreage will be taken into account in applying this limitation. No Agricultural Intensification will be allowed to portion shall occur* on *lands containing vernal pools or any other sensitive habitat.]

"Agricultural Intensification" is the conversion of rangeland to more intensive agricultural uses such as row crops, orchards, and vineyards. As of the Effective Date, the Landowner currently utilizes ____ (__) acres for intensified agriculture and shall continue to do so without further permission. Landowner and Rangeland Trust have identified and agreed to ____ (__) additional Agricultural Intensification areas ("**Agricultural Envelopes**") for a combined ____ (___) acres of Agricultural Intensification. The location and respective sizes of said Agricultural Envelopes are depicted in **Exhibit B**. Landowner may conduct Agricultural Intensification within said Agricultural Envelopes with Written Notice. Should situations arise that make the agreed locations of the Agricultural Envelopes unsuitable or impossible for Agricultural Intensification, at the sole expense of the Landowner, Rangeland Trust and the Landowner shall work cooperatively to identify alternative location(s) within the Easement Area to relocate the Agricultural Envelope(s). Conversion of land outside of the Agriculture Envelopes without Written Approval is prohibited.

[Optional Language to restrict farming practices: *Allowable agricultural uses within the Agricultural Envelopes include the cultivation of food based crops including, but not limited to, grapes, nuts, fruits, olives, and other perennial agricultural products; tree farming; nonperennial forages for human or domestic animal consumption; crop seed production; bee keeping and the*

*extraction of honey; cultivation of fiber-based products; cultivation of commercial flower growths; and, the storing, packing and other activity associated with the sale of the aforementioned products provided products so long as the agricultural operations are consistent with the long-term viability of the Easement Area. Nothing herein shall prohibit non-commercial gardening for Landowner's personal use so long as such activity is conducted within the Building Envelope.**]***

Other agricultural uses (i.e. those that are not considered Agricultural Intensification) are authorized outside the Building and Agricultural Envelopes without further permission. These agricultural uses are those uses that are compatible with grazing or grazing-related activities and those that restore or conserve grassland including, but not limited to, those practices related to the production of livestock, forage production, grazing, haying and livestock fodder production.

13. **Feedlot.** The establishment or maintenance of a commercial feedlot is prohibited. For purposes of this Easement, "commercial feedlot" is defined as a permanently constructed confined area or facility that is used and maintained for purposes of engaging in the business of feeding livestock and which is not grazed or cropped annually. For purposes of this Easement, a "commercial feedlot" shall not include the establishment, use, or maintenance of corrals, holding pens or pastures. Nothing in this Section shall prevent Landowner from confining livestock for discretionary seasonal feeding of livestock raised or pastured on the Easement Area. Written Approval is required for any finishing of livestock raised or pastured on the Easement Area for commercial purposes may be authorized.

14. **Industrial, Non-Agricultural Commercial, and Recreational Uses; Motorized Vehicles**.

(a) Industrial Uses. All industrial uses of the Easement Area not expressly authorized herein are prohibited.

(b) Non-Agricultural Commercial Uses. With the exception of the commercial recreational uses authorized in Subsection (c), below, all non-agricultural commercial uses are prohibited on the Easement Area except with Written Approval.

(c) Recreational Uses. Non-commercial and commercial recreational uses such as hunting, fishing, horseback riding, wilderness camping, picnicking, education, wildlife viewing, hiking, non-motorized cycling, rock collecting, and photography may be undertaken without further permission. All other recreational uses are prohibited on the Easement Area except with Written Approval.

(d) Utility Facilities. Landowner and Rangeland Trust may negotiate both compensation for and location of utility facilities and supporting infrastructure, excluding communication facilities in Subsection 14(e) below, to be constructed or relocated within the Easement Area by an entity having the power of eminent domain so as to avoid impairment of any Conservation Values. Any compensation shall be shared as provided in Section 35 hereof and the Rangeland Trust's portion shall be used exclusively to further conservation either within or outside of the Easement Area. Renewable power generation facilities, such as solar, wind and hydroelectric, may be constructed within the Easement Area only with Written Approval and only at locations where their visibility from the vantage of public roads will be avoided or minimized.

Solar panels for buildings on the Easement Area that are located on the roof, or within 100 feet of that building may be constructed without further permission. The Parties agree that the provisions of this Subsection 14(d) restricting installation of solar energy systems are "reasonable restrictions" within the meaning of California Civil Code § 714.

(e) Commercial Communications Facilities. Landowner may construct and operate or authorize others to construct and operate commercial communications facilities such as cell towers or 911 communications towers with Written Notice. Notwithstanding the foregoing, telemetric equipment included in the Incidental Ranch Facilities, personal transmission equipment for services such as wireless internet or broadcast television, and small-scale transmission equipment for research projects conducted by academic, government, or similar research organizations without further permission.

(f) Motorized Vehicles. Landowner and Landowner's family members, employees, and non-paying guests may use motorized vehicles off-road for activities allowed by this Easement (including, without limitation, livestock management and farming) without further permission. Motorized vehicles may also be used off-roads for the maintenance of utilities, retrieval of game, or for emergency purposes. Any other uses of off-road vehicles, motorized vehicle races, and the construction of motorized off-road vehicle courses are prohibited.

(g) Ecosystem Services and Sale of Carbon Credits.

(i) Ecosystem Services. With Written Approval, Landowner may develop ecosystem functions, including, but not limited to, carbon sinks, stream bank restoration, riparian corridor restoration, stream flow enhancement, and carbon sequestration, and may participate in any programs with state or federal agencies or private entities intended to provide incentives or compensation for the restoration or relocation of rare, imperiled, threatened, or endangered species or communities on the Easement Area in a manner designed to restore historic natural systems, or for other environmental preservation or enhancement efforts. Rangeland Trust shall ensure that the terms and conditions of the Easement are taken into account when calculating the baseline/business as usual of the Easement Area for purposes of establishing carbon credits or other emissions offsets that the Landowner proposes to develop.

(ii) Sale of Carbon and other similar Credits. Subject to providing Written Notice at least sixty (60) days prior to any of the following actions, Landowner may sell, exchange, transfer, trade, gift, or retire, any or all of the rights to carbon offset credits issued by a third-party entity, or any or all similar rights that may exist now or in the future, that are appurtenant to the Easement Area

15. **Trash; Agricultural Residues.**

(a) Trash. Landowner may dedicate up to one (1) acre to store trash, refuse, or derelict equipment, or increase the existing area as defined for such use in the Report as of the Effective Date, by no more than ten percent (10%). All other dumping or accumulation of trash, refuse or derelict equipment outside of enclosed structures on the Easement Area is prohibited.

(b) Agricultural Residues. Landowner may engage in the burning, chipping, grinding, mixing or composting of plant or animal matter derived from the Easement Area (including manures, orchard or vineyard prunings, or other crop residues that result from ranching or farming related activities) ("**Agricultural Residues**").

16. **Water Rights and Resources.**

(a) Water Rights. Landowner shall retain and maintain all groundwater, riparian, appropriative, prescriptive, contractual, adjudicated, and other water rights appurtenant to or part and parcel of the Easement Area as of the Effective Date (**"Easement Area Water" or "Water Rights"**). Landowner shall not permanently transfer, encumber, lease, sell, or otherwise separate Easement Area Water or Water Rights from title to the Easement Area.

(i) Landowner may temporarily transfer Easement Area Water or Water Rights that are not reasonably necessary for authorized uses and protection of Conservation Values on the Easement Area to a contiguous property or other property owned or leased by Landowner on an annual basis for agricultural production with Written Notice.

(ii) Landowner may temporarily use or supply Easement Area Water from the Easement Area for immediate fire control response or wildfire emergency without further permission.

(b) Water Resources. Development of water resources on the Easement Area for non-authorized commercial use is prohibited. Development of water resources for authorized agricultural uses, forest management, livestock, fish and wildlife habitat use, domestic needs, streamflow protection or enhancement, and private recreation is authorized.

Authorized water resource development includes, but is not limited to, the restoration, enhancement and development of water resources, including ponds, tanks, groundwater recharge basins, infiltration galleries, and other streamflow protection or enhancement facilities; construction, repair, and maintenance of irrigation systems; and the development of stock and domestic water capture and delivery facilities as allowed in Subsection 4(a)-(d), including but not limited to, water lines and access roads or trails to water facilities.

Any new diversion from a surface watercourse for irrigated agriculture must comply with the requirements of federal, state and local agencies having jurisdiction over water resources and water diversions. No additional, changed, expanded or intensified activity on, or use of the Easement Area resulting in insufficient water to sustain the Conservation Values shall be allowed.

17. **Rights Retained by Landowner.** The Landowner retains the right to perform any act not specifically prohibited or limited by this Easement. Landowner's present uses and compatible historic uses of the Easement Area for ranching, managed grazing, and other allowed agricultural uses as described in the Report and as limited by Sections 3 and 12, are deemed to be authorized activities consistent with the Conservation Purposes. Landowner retains all ownership rights consistent with such purposes, including, but not limited to, the right to exclude any member of the public from trespassing on the Easement Area and the right to sell or otherwise transfer the

Easement Area to anyone Landowner chooses, and the right to refinance, obtain loans, create liens, and grant deeds of trust on the property, subject to the prior encumbrance of the Easement.

18. **Responsibilities of Landowner and Rangeland Trust Not Affected.** Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on the Rangeland Trust, or in any way to affect any existing obligation of the Landowner as owner of the Easement Area. Among other things, this shall apply to:

(a) Taxes. Landowner shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Easement Area or the property underlying the Easement Area by competent authority. If the Rangeland Trust is ever required to pay any taxes or assessments on the Easement Area or underlying property, Landowner will promptly reimburse Rangeland Trust for the same.

(b) Upkeep and Maintenance. Landowner shall continue to be solely responsible for the upkeep and maintenance of the Easement Area. Rangeland Trust shall have no obligation for the upkeep or maintenance of the Easement Area.

(c) Liability and Indemnification.

(i) Landowner shall and hereby agrees to hold harmless, indemnify, protect, and defend Rangeland Trust, its officers, directors, members, employees, contractors, legal representatives, agents, successors and assigns, and each of them (collectively "**Rangeland Trust Indemnified Parties**") from and against all liabilities, penalties, costs, losses, orders, liens, damages, expenses, causes of action, claims, demands, or judgments, including without limitation reasonable attorneys' and experts' fees arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to or occurring on or about the Easement Area, regardless of cause, except to the extent caused by the negligence or willful misconduct of any of the Rangeland Trust Indemnified Parties, while acting on behalf of Rangeland Trust; or (b) a violation of, or other failure to comply with, any state, federal or local law, regulation or requirement, by Landowner, or any party other than one of the Rangeland Trust Indemnified Parties acting upon permission from Landowner, in any way affecting, involving, or relating to the Easement Area; (c) or the breach by Landowner of any of its obligations set forth in this Easement**.**

(ii) Rangeland Trust shall hold harmless, indemnify, and defend Landowner and its officers, directors, employees, contractors, legal representatives, agents, heirs, personal representatives, successors, and assigns, and each of them (collectively "**Landowner Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' and experts' fees, arising from or in any way connected with any injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Easement Area to the extent caused by the negligence or willful misconduct of any of the Rangeland Trust Indemnified Parties while acting on behalf of Rangeland Trust.

(d) Insurance.

(i) Landowner shall maintain an occurrence-basis commercial general liability policy insuring against bodily injury and property damage on the Easement Area in the amount of not less than One Million Dollars ($1,000,000). Rangeland Trust shall be named an additional insured on the policy. For any claim covered by the indemnification in Subsection 18(c)(i) hereof, the liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Rangeland Trust. Landowner waives all rights of subrogation against Rangeland Trust and its agents, representatives, officers, directors, and employees for recovery of damages to the extent these damages are covered by insurance maintained pursuant to this Easement. Landowner shall furnish Rangeland Trust with certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above, upon reasonable request. Such certificates shall provide for thirty (30) days Written Notice to Rangeland Trust prior to the cancellation or material change of any insurance referred to herein. Any failure of Rangeland Trust to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Rangeland Trust to identify a deficiency from evidence that is provided shall not be construed as a waiver of Landowner's obligation to maintain such insurance. The foregoing insurance requirements do not replace, waive, alter, or limit the hold harmless or indemnification provisions of this. Not less frequently than every five (5) years, the Parties shall cooperate in determining an appropriate increase, to adjust for inflation, in the limit of the insurance coverage maintained by Landowner. Thereafter, Landowner shall obtain and maintain in effect such increased coverage until the next such adjustment.

(ii) Rangeland Trust shall maintain an occurrence-basis comprehensive general liability policy insuring against bodily injury and property damage on the Easement Area in the amount of not less than one million dollars ($1,000,000). For any claim covered by the indemnification in Subsection 18(c)(ii) hereof, the liability insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to Landowner. Rangeland Trust waives all rights of subrogation against Landowner and its agents, representatives, officers, directors and employees for recovery of damages to the extent these damages are covered by insurance maintained pursuant to this Easement. The foregoing insurance requirements do not replace, waive, alter or limit the hold harmless or indemnification provisions of this . Not less frequently than every five (5) years, Rangeland Trust shall determine if any adjustments for inflation are necessary and shall review the limit of insurance or self-insurance coverage it maintains. Thereafter, Rangeland Trust shall obtain and maintain in effect such coverage until the next such adjustment.

19. **Monitoring, Management and Issue Resolution.**

(a) Right of Entry. Rangeland Trust, its agents, representatives and contractors shall have the right to enter annually with reasonable advance notice onto the Easement Area for purposes of monitoring compliance with the terms of this Easement. Except when Rangeland Trust has reasonably determined that immediate entry is required to prevent, terminate, or mitigate a violation of this Easement, under which circumstance Rangeland Trust may enter the Easement Area without prior notice, additional entry shall be permissive and therefore require notice to and

permission by Landowner. Rangeland Trust's monitoring and access activities shall not interfere with normal agricultural operations on the Easement Area. ***[If the funding agencies require the right to accompany the monitors once every three years, additional language to that effect will be added here.]***

(b) Cooperative Resource Stewardship. Rangeland Trust believes that, in most cases, the existing stewardship on the ranches it selects for conservation easement projects has supported and enhanced the conservation values these ranches provide, and, consistent with that premise, Rangeland Trust agrees with Landowner to take wherever possible a cooperative approach to monitoring and management of the Conservation Values. The Parties will conduct joint qualitative monitoring to ensure that the Conservation Values are being protected. This monitoring will be supported through the Report and subsequent reviews, using photographs and narrative descriptions, among other evaluation tools. Monitoring will also consider issues such as site potential, weather conditions, unusual economic circumstances, vegetative variety and quality and trends in resource conditions.

(c) Agreement and Mediation.

(i) The Parties agree that, except as otherwise provided in Subsection (f), below, before any claim of breach or course of action to force performance or redress any concern is undertaken in a court of law that the Parties shall meet to discuss the issue(s) and shall make bona fide and mutual attempts to reconcile the differences. Such meeting shall take place within thirty (30) days of the written notice of breach or claim, which shall describe in reasonable detail the corrective action asserted by the Rangeland Trust to be necessary. If the Parties agree to a plan of action, such plan of action shall be converted to written form and signed by the Parties. Landowner shall have the right, but not the obligation, to prepare the first draft of the agreed plan of action, which shall be prepared within fourteen (14) days of the above described meeting. Any proposed revisions by the other Party shall be made within fourteen (14) days of receipt of the draft agreement. The Parties may continue to exchange drafts until a final written agreement is reached, or either Party may declare that the dispute cannot be resolved by agreement after each has had at least one opportunity to present its version of the agreement.

(ii) If the Parties have not resolved the dispute within 30 days of such meeting and are not actively pursuing an agreement as provided for in Section 19(c)(i), they shall proceed promptly to engage a single mediator to assist in the resolution of the dispute. Such mediator shall be a Certified Rangeland Manager certified by the California-Pacific Section of the Society for Range Management pursuant to its Program for Certification of Professional Rangeland Managers ("**Certified Rangeland Manager**"), or other professional with comparable or otherwise appropriate expertise. If the Parties cannot agree upon such a mediator within 45 days after the meeting, the Party giving such notice may proceed with a judicial action. Unless the Parties agree to a longer period, each in its sole discretion, all mediation hearings must conclude within 60 days of the selection of the mediator. The cost of the mediator shall be shared equally by the Parties, except as otherwise provided in Subsection (g) below.

(iii) If the mediator determines that the Report, or subsequent monitoring, has identified circumstances requiring improvement to protect the Conservation

Values, Landowner shall either agree to develop a written management plan that addresses the particular resource management concern(s) identified by the mediator and Rangeland Trust, shall, at Landowner's expense, engage a Certified Rangeland Manager, a District Conservationist of the Natural Resources Conservation Service, U.S. Department of Agriculture ("**District Conservationist**"), or other qualified professional to develop the management plan, or refuse to participate in further efforts at cooperative resolution. If the Landowner chooses to prepare the plan, Landowner shall be encouraged but not required to engage the services of a Certified Rangeland Manager, a District Conservationist, or other qualified professional to assist Landowner in the development of such a management plan. The required scope of the plan and the time allowed for its development shall depend on the nature and severity of the identified problem(s). The management plan shall be subject to Rangeland Trust's approval. Landowner shall implement an approved plan for so long as is necessary to resolve the particular resource management problem(s) addressed by the plan. Rangeland Trust shall monitor implementation of the plan, and results thereof, during its periodic monitoring, and in accordance with this Section may initiate modifications of the plan as the resource conditions warrant.

(d) Judicial Enforcement. If the Parties are unable to agree to corrective action to address a breach or claim through the process set forth in Subsection 19(c), the complaining party may proceed with judicial action.

(e) Expert Assistance. The opinions of any Certified Rangeland Manager or other qualified professional engaged to assist the Parties in the resolution of any claim of injury to any Conservation Value shall be admissible in any judicial proceedings conducted with respect to that asserted violation.

(f) Immediate Relief. Notwithstanding the provisions of Subsections 19(c) and (d), if at any time Rangeland Trust determines that an ongoing or imminent violation could substantially impair Conservation Values, Rangeland Trust may proceed immediately to seek an injunction to stop it temporarily or permanently. Rangeland Trust may also seek an injunction requiring the Landowner to restore, or pay for the restoration of, the Easement Area to its condition prior to the violation.

(g) Alternative and Cumulative Remedies; Legal Costs. Rangeland Trust's remedies described in this Section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity. Furthermore, the provisions of California Civil Code Section 815, *et seq*., are incorporated herein by this reference and this Easement is made subject to all of the rights and remedies set forth therein. In any action brought to enforce or interpret any of the terms of this instrument, the prevailing Party shall be entitled to recover its costs incurred in any such action, including reasonable attorneys', consultants', and experts' fees and costs, and the costs of engaging a mediator in accordance with the provisions Subsection (c), above, when the mediation has been unsuccessful, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' and experts' fees and costs due hereunder shall be determined by a court of competent jurisdiction and not by a jury. For the purposes of this Section 19, attorneys' and experts' fees and costs shall also include, without limitation, fees incurred in the following: (a) post-judgment motions; (b) contempt proceedings; (c) garnishment, levy, and

debtor and third party examinations; (d) discovery; and (e) bankruptcy litigation.

20. **Forbearance No Waiver.** Forbearance by the Rangeland Trust to exercise its rights under this Easement in the event of any breach of any term of this Easement by Landowner shall not be construed to be a waiver by the Rangeland Trust of such term or of any subsequent breach of the same or any other term of this Easement. No delay or omission in the exercise of any right or remedy upon any breach by Landowner shall impair such right or remedy or be construed as a waiver.

21. **Rangeland Trust Transfer of the Easement.**

(a) Assignment by Rangeland Trust. The Parties contemplate that Rangeland Trust will continue to hold this Easement for so long as Rangeland Trust remains in existence. Notwithstanding such contemplation, however, Rangeland Trust may assign its interest under this Easement, *provided*, that Rangeland Trust shall first furnish Landowner with written notice of such intention and shall allow Landowner a period of one hundred eighty (180) days within which to designate an assignee that is: (i) qualified to hold a conservation easement under Section 815.3 of the California Civil Code; (ii) a "qualified organization" as defined in Section 170(h)(3) of the U.S. Internal Revenue Code, 26 U.S.C. § 170(h)(3); (iii) not an "Affiliate" (as defined below) of Landowner or any lessee of any portion of the Easement Area; and (iv) willing and financially able to assume all of the responsibilities imposed on Rangeland Trust under this Easement including, without limitation, monitoring and enforcement,, collectively the ("**Designation Criteria**"). As used in this Subsection, "Affiliate" means an entity which directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person or entity. In the event that at the end of the one hundred eighty (180) day period either an assignment has not been made or Landowner has not petitioned a court of competent jurisdiction to transfer this Easement to an entity that meets the foregoing Designation Criteria, Rangeland Trust may proceed to transfer this Easement to any non-governmental entity that meets all of the foregoing Designation Criteria or to petition a court of competent jurisdiction to do so. The Parties intend that, in the selection of a transferee, preference be given to a qualified organization with an agricultural and rangeland conservation purpose as well as requisite experience in preserving and protecting the other Conservation Values. Said organization should have a board, staff, or consultants with practical agricultural management experience. Rangeland Trust shall not transfer this Easement to any governmental entity or public agency without the consent of Landowner, which consent shall be in Landowner's sole discretion.

(b) Cessation of Rangeland Trust. If Rangeland Trust ever ceases to exist or no longer qualifies under Section 170(h) of the U.S. Internal Revenue Code, or applicable state law, or no longer meets all the four Designation Criteria, then Landowner shall petition a court of competent jurisdiction to transfer this Easement to an organization that meets all of those criteria. If the court is unable to identify a non-governmental organization that meets those criteria, the court may transfer this Easement to a governmental entity that meets the criteria.

22. **Landowner Transfer of the Easement Area.**

(a) Notification. Any time the Easement Area itself or any interest in it is transferred by the Landowner to any third party, the Landowner shall provide Written Notice prior to the transfer of the Easement Area, and the deed of conveyance shall expressly refer to this Easement. Failure to notify Rangeland Trust or include the required reference to this Easement in the deed shall not affect the continuing validity and enforceability of this Easement.

(b) Transfer Fee. A transfer of the ownership of the Easement Area may result in an additional burden on the monitoring and enforcement responsibilities of Rangeland Trust; therefore, each such transfer shall require the payment of a transfer fee to the Rangeland Trust's monitoring fund in the amount of .4 percent (four tenths of one percent) of the sales price. A transfer fee shall not apply to: (i) transfers solely to change the method of holding title by the same party or parties; or (ii) inter-generational transfers between members of the same family. Rangeland Trust may reduce or waive this fee at its sole discretion.

(c) No Merger. The Parties intend that a transfer to Rangeland Trust of the fee interest in the Easement Area, or any portion thereof, shall not be deemed to result in a merger of the Easement into the fee title. In the event of such transfer, Rangeland Trust shall continue to manage the Easement Area in accordance with the Conservation Purposes and, in the event of a subsequent transfer by Rangeland Trust of its fee interest in the Easement Area, Rangeland Trust shall reserve therefrom this Easement.

23. **Amendment of Easement.** This Easement may be amended only by a written instrument executed and acknowledged by the Parties. Any such amendment shall be consistent with the purposes of this Easement and shall comply with Section 170(h) of the U.S. Internal Revenue Code, California Civil Code Section 815, *et seq*., or any regulations promulgated in accordance with that section. Any such amendment shall also be consistent with California law governing conservation easements and Rangeland Trust policies. All amendments shall refer to this Easement and shall be recorded in the official records of the county(ies) identified in Recital A of this Easement.

24. **No Public Dedication or Public Access.** Nothing contained in this Easement shall be deemed to be a gift or dedication of any portion of the Easement Area for use by the general public. This instrument does not convey a general right of access to the public.

25. **Landowner's Title Warranty; No Prior Conservation Easements.** Landowner represents and warrants that Landowner has good fee simple title to the Easement Area, free from any and all liens or encumbrances except the approved encumbrances shown in **Exhibit C**, and hereby promises to defend the same against all claims that may be made against it. Landowner represents and warrants that the Easement Area is not subject to any other conservation easement. Subject to providing Written Notice at least ninety (90) days in advance, including a copy of the conservation easement instrument(s), Landowner may grant subsequent conservation easements on the Easement Area.

26. **Environmental Provisions.**

(a) Rangeland Trust Not An Owner, Operator, Or Responsible Party.

Notwithstanding any other provision herein to the contrary, the Parties do not intend this Easement to be construed such that it creates in or gives the Rangeland Trust:

(i) the obligations or liability of an "owner" or "operator" as those words are defined and used in environmental laws, as defined below, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601 *et seq*. and hereinafter "CERCLA");

(ii) the obligations or liability of a person described in 42 U.S.C. § 9607(a)(3) or (4);

(iii) the obligations of a responsible person under any applicable Environmental Laws, as defined below;

(iv) the right to investigate and remediate any Hazardous Substance (as defined below) associated with the Easement Area; or

(v) any control over Landowner's ability to investigate, remove, remediate, or otherwise clean up any Hazardous Substance (as defined below) associated with the Easement Area.

(b) Environmental Liabilities and Indemnification. Landowner and Landowner's successors in interest shall indemnify, protect, and defend with counsel acceptable to Rangeland Trust, and hold harmless the Rangeland Trust Indemnified Parties from and against any claims (including, without limitation, third party claims for personal injury or death, damage to Easement Area, or diminution in the value of property), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities (including sums paid in settlements of claims), remedial action, compliance requirements, enforcement and clean-up actions of any kind, interest or losses, attorneys' fees (including any fees and expenses incurred in enforcing this indemnity), consultant fees, and expert fees that arise directly or indirectly from or in connection with: (i) the claimed presence or Release (as defined below) of any Hazardous Substance, whether into the air, soil, surface water or groundwater of or at the Easement Area; (ii) any violation or alleged violation of Environmental Law (as defined below) affecting the Easement Area, whether occurring prior to or during Landowner's ownership of the Easement Area and whether caused or authorized by Landowner or any person other than Landowner; or (iii) any claim or defense by Landowner or any third party that any Rangeland Trust Indemnified Party is liable as an "owner" or "operator" of the Easement Area under any Environmental Law. The foregoing indemnity obligations shall not apply with respect to any Hazardous Substance released or deposited as a result of action by the Rangeland Trust Indemnified Parties on or about the Easement Area. The indemnity obligations of any successor in interest of Landowner pursuant to this Subsection shall be limited to the portion of the Easement Area to which the successor takes title. ***[Optional Provision for High Dollar***

Easements: Notwithstanding any statutory limitation otherwise applicable, or the provisions of Section 30 hereof, the indemnity obligations of Landowner to the Rangeland Trust Indemnified Parties pursuant to this Subsection, solely with respect to matters occurring prior to or during Landowner's ownership of the Easement Area, shall continue after transfer to a successor in interest unless a written request for consent to assignment of such indemnity obligations to a successor in interest is approved by Rangeland Trust prior to the successor taking interest of the Easement Area. In considering any such request, Rangeland Trust may take into account the financial capabilities of the successor in interest, without regard to any third-party financial assurances. Rangeland Trust's consent to such assignment may be denied only if there is a commercially reasonable basis for such denial.]

(c) Definitions.

(i) The term "Environmental Law" shall include, but shall not be limited to, each statute named or referred to below, and all rules and regulations thereunder, and any other local, state and/or federal laws, ordinances, rules, regulations, orders and decrees, whether currently in existence or hereafter enacted, which govern (a) the existence, cleanup and/or remedy of contamination or pollution on Easement Area; (b) the protection of the environment from soil, air, or water contamination or pollution, or from spilled, deposited or otherwise emplaced contamination or pollution; (c) the emission or discharge of Hazardous Substances into the environment; (d) the control of Hazardous Substances; or (e) the use, generation, transport, treatment, removal, or recovery of Hazardous Substances.

(ii) The term "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of any Hazardous Substance into the environment (including, without limitation, the continuing migration of Hazardous Substances into, onto, or through the soil, surface water, or groundwater, and the abandonment or discarding of barrels, containers, and other receptacles containing any Hazardous Substance), whether or not caused by, contributed to, authorized by, acquiesced to, or known to Landowner.

(iii) The term "Hazardous Substance" shall mean (a) any oil, flammable substance, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials, or pollutants which pose a hazard to the Easement Area or to persons on or about the Easement Area, or cause the Easement Area to be in violation of any Environmental Law; (b) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls, or radon gas; (c) any chemical, material, or substance defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste," or "toxic substances" or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including: CERCLA, 42 U.S.C. Section 9601, *et seq*.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901, *et seq*.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq*.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, *et seq*.; the California Hazardous Waste Control Law ("HWCL"), Cal. Health & Safety Code Section 25100, *et seq*., Hazardous Substance Account

Act ("HSAA"), Cal. Health & Safety Code section 25300, *et seq*., the Porter-Cologne Water Quality Control Act (the "Porter-Cologne Act"), Cal. Water Code Section 13000, *et seq*., the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65); Title 22 of the California Code of Regulations, Division 4, Chapter 30; (d) any other chemical, material or substance, exposure to which is prohibited, limited, regulated by any governmental authority, or may pose a hazard to the health and safety of the occupants of the Easement Area or the owners and/or occupants of property adjacent to or surrounding the Easement Area, or any other person coming upon the Easement Area or adjacent property; and (e) any other chemical, materials, or substance which may or could pose a hazard to the environment.

27. **Interpretation.** This instrument shall be interpreted under the laws of the State of California, without regard to its conflict of laws principles, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its Conservation Purposes. If any provision of this Easement, or the application thereof to any person or circumstances, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.

28. **Captions.** The captions in this Easement have been inserted solely for convenience of reference and shall have no effect upon construction or interpretation.

29. **Perpetual Duration.** The covenants, terms, conditions, and restrictions of this Easement Deed shall be binding upon, and inure to the benefit of, the Parties hereto and their respective successors, permitted assigns, personal representatives and heirs and shall constitute a servitude running in perpetuity with the Easement Area.

30. **Termination of Rights and Obligations**. A Party's rights and obligations under this Easement terminate upon transfer of the Party's interest in the Easement or Easement Area, except as otherwise provided in Section 26(b) above, and except that liability for acts, omissions or breaches occurring prior to transfer shall survive transfer.

31. **Joint and Several Liability**. At any time that more than one person or entity owns an undivided fee interest in a parcel included in whole or in part within the Easement Area, each such person or entity shall be jointly and severally liable with each other person or entity having an undivided fee title interest in the Easement Area for all of the obligations of Landowner under this Easement.

32. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by any other common method whereby receipt is confirmed, and addressed as follows or to such other address as either party from time to time shall designate by written notice to the other.

To LANDOWNER: _____
_____
_____
_____

To RANGELAND TRUST: California Rangeland Trust
Attn: Conservation Director
3900 Lennane Drive, Suite 210
Sacramento, CA 95834
Phone: 916-444-2096

When personally delivered, notice is effective upon delivery. When mailed by certified mail, postage prepaid, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt. When delivered by an overnight delivery service, notice is effective on delivery, if delivery is confirmed by the delivery service.

33. **Condemnation.** This Easement constitutes a real property interest immediately vested in Rangeland Trust. If the Easement Area is taken, in whole or in part, by exercise of the power of eminent domain, Rangeland Trust shall be entitled to compensation in accordance with applicable law for the value of the Easement taken, and Landowner shall be entitled to compensation in accordance with applicable law for the value of the underlying fee title taken. For the purposes of this Section, the Parties agree that the fair market value of this Easement will be determined by multiplying the fair market value of the Easement Area unencumbered by the Easement ***[,minus any increase in value attributable to improvements made after the Effective Date,]*** by _____ percent, which the Parties agree is the ratio of the value of this Easement to the value of the Easement Area unencumbered by this Easement as of the Effective Date, as determined by an appraisal approved by the Parties as of the Effective Date. Rangeland Trust shall use all proceeds received as an award in a condemnation proceeding for a taking of this Easement in a manner consistent with the Conservation Purposes. *The Parties intend by the provisions of this Section to satisfy the requirements of 26 C.F.R. § 1.170A-14(g)(6) as applicable on the Effective Date.*

34. **Extinguishment**. If circumstances arise in the future that render the Conservation Purposes impossible to accomplish, including circumstances resulting from a default under this Easement, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the compensation to which Rangeland Trust shall be entitled from any sale, exchange or involuntary conversion of all or any portion of the Easement Area subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by California law at the time, in accordance with Section 33. Rangeland Trust shall use all such proceeds in a manner consistent with the Conservation Purposes of this Easement.

[Insert/replace Section 34 if any portion of the easement value is donated: Pursuant to IRS Notice 2023-30, Grantor and Grantee agree that, if a subsequent unexpected change in the conditions surrounding the property that is the subject of a donation of the perpetual conservation restriction renders impossible or impractical the continued use of the property for conservation purposes, the conservation purpose can nonetheless be treated as protected in perpetuity if (1) the restrictions are extinguished by judicial proceeding and (2) all of Grantee's portion of the proceeds (as determined by Section 35) from a subsequent sale or exchange of

the property are used by Grantee in a manner consistent with the Conservation Purposes of the original contribution.]

35. **Compensation.** This Easement constitutes a real property interest immediately vested in Rangeland Trust. For the purposes of the Section entitled Extinguishment, the Parties agree that the fair market value of this Easement as of the date of the termination or extinguishment shall be the amount of compensation due Rangeland Trust as the result of such termination or extinguishment. Such fair market value of this Easement will be determined by multiplying the fair market value of the Easement Area as if it were unencumbered by this Easement **[,** minus any increase in value attributable to improvements made after the Effective Date,**]** by the greater of (i) the ratio of the value of this Easement at the time of its termination or extinguishment to the value of the Easement Area as if unencumbered by this Easement at that time, or (ii) __ percent (which the Parties agree is the ratio of the value of the Easement to the value of the Easement Area unencumbered by this Easement as determined by the appraisal previously approved by the Parties). The fair market values of the Easement Area and this Easement as of the date of termination or extinguishment shall be determined by a complete appraisal conducted by a qualified appraiser approved by the Parties. The cost of such appraisal shall be borne by the party who initiates the judicial action for termination or extinguishment. *The Parties intend by the provisions of this Section to satisfy the requirements of 26 C.F.R. § 1.170A-14(g)(6)(ii) as applicable on the Effective Date.*

[Insert/replace if any portion of the easement value is donated: Determination of Proceeds: Grantor and Grantee agree that the donation of the perpetual conservation restriction gives rise to a property right, immediately vested in Grantee, with a fair market value that is at least equal to the proportionate value that the perpetual conservation restriction, at the time of the gift, bears to the fair market value of the property as a whole at that time. The proportionate value of Grantee's property rights remains constant such that if a subsequent sale, exchange, or involuntary conversion of the subject property occurs, Grantee is entitled to a portion of the proceeds at least equal to that proportionate value of the perpetual conservation restriction, unless state law provides that the donor is entitled to the full proceeds from the conversion without regard to the terms of the prior perpetual conservation restriction. The Parties intend by the provisions of this Section to satisfy the requirements of IRS Notice 2023-30 as applicable on the effective date.]

36. **Laws Currently in Effect.** All references in this Easement to statutes, regulations and other laws shall be deemed to refer to those statutes, regulations and laws currently in effect, or as amended (or any successor provision then applicable).

37. **Recordation.** Rangeland Trust shall promptly record this instrument in the official records of the county(ies) identified in Recital A, above, and promptly notify the Landowner through the mailing of a conformed copy of the recorded Easement.

38. **Entire Agreement.** This instrument sets forth the entire agreement of the Parties with respect to the Easement Area and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement Area, all of which are herein merged.

39. **Counterparts.** The Parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both Parties; each counterpart shall be deemed an original instrument as against any party who has signed it. Counterpart signature pages and notary acknowledgments may be attached hereto to constitute a single legal document for recording. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

40. **Written Approval; Landowner to Bear Costs and Expenses of Review.** Whenever Rangeland Trust's permission, consent, or approval is required pursuant to this Easement, such permission, consent, or approval shall be obtained in advance and in writing from Rangeland Trust. Except as otherwise provided in this Easement, whether permission, consent, or approval should be granted or denied shall be determined based upon the purposes of this Easement and shall not be unreasonably withheld or delayed. Landowner shall be solely responsible for bearing all reasonable costs and expenses incurred by Rangeland Trust, including, without limitation, reasonable attorneys' and consultants' fees and costs, in connection with: (i) Rangeland Trust's review of any request by Landowner for Rangeland Trust's permission, consent, or approval of any development or other use of the Easement Area for which Rangeland Trust's discretionary permission, consent, or approval is required under this Easement; and (ii) Rangeland Trust's participation, at Landowner's request, in any regulatory proceeding for consideration of proposed development or other use of the Easement Area allowed under this Easement.

41. **Compliance with Applicable Laws**. Landowner remains solely responsible for obtaining any applicable governmental permits or other approvals for any activity or use allowed under this Easement. No right or privilege granted in this Easement, nor any right retained by Landowner, shall be interpreted as exempting Landowner from complying with all statutes, laws, ordinances, rules, regulations, codes, orders, or other restrictions applicable to the Easement Area.

42. **Exhibits.** The exhibits attached hereto are incorporated herein by this reference:

Exhibit A: Easement Area Legal Description
Exhibit B: Easement Area Map
Exhibit C: Approved Encumbrances
Exhibit D: Access Route Easement (If Applicable)

43. **Effective Date.** This Easement is effective upon recordation in the Official Records of the county(ies) identified in Recital A.

Agreed to and executed by:

LANDOWNER:

_____ _____
Date

CALIFORNIA RANGELAND TRUST

By: _____ _____
Date

Its: _____

[Add notary acknowledgments.]

Exhibit A

Easement Area Description

Insert legal description. Confirm legal description matches description on the latest title report, and prior to closing compare with pro forma title policy legal description.

Exhibit B

Easement Area Map
Insert map of the Easement Area showing the following items:
Residential Building Envelope – Section 4(c)
Agricultural Intensified Areas – Section 12
Existing Buildings, major public and private roads, streams, stock ponds, any other major features

Exhibit C

Approved Encumbrances

Exhibit D

Access Route Easement (If Needed)

LIVERMORE
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CITY COUNCIL STAFF REPORT **ITEM NO. 10.1**

DATE: November 27, 2023

TO: Honorable Mayor and City Council

FROM: Marianna Marysheva, City Manager

SUBJECT: Supplemental materials.

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.

3.1	Beautification Committee annual update presented by Vice Chair, Mark Goralka. Material: PowerPoint Presentation
3.2	Presentation of the 2023 Beautification Awards. Material: PowerPoint Presentation
3.3	Livermore Valley Wine Heritage District annual update presented by Brandi Lombardi, Executive Director, Livermore Valley Winegrowers Association. Material: PowerPoint Presentation
6.1	Hearing to consider amending the Livermore Municipal Code Chapter 5.90 Short-Term Rentals, Section 5.90.050 Locations, to allow accessory dwelling units with building permits issued prior to January 1, 2020, to be used as short-term rentals. Material: PowerPoint Presentation
7.1	Resolution accepting the Altamont Landfill Open Space Committee's recommendation to expend funds for a grant to allow the California Rangeland Trust in the amount of $145,810 for the purchase of a 120-acre conservation easement on a portion of the of the 160-acre Diranne Ranch (DC Ranch) located in Eastern Alameda County. 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: Debbie Elam
Assistant City Clerk

Approved by:

Marianna Marysheva
City Manager

Fiscal Review by:

Tina Olson
Administrative Services Director



Beautification Committee 2023 Annual Update

November 27, 2023

Mark Goralka, Beautification Committee Vice-Chair

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Beautification Committee Members

- Mark Goralka, Vice-Chair
- Saundra G Lormand, Committee Member
- Tania M Panarello, Committee Member
- Karen L Jefferson, Committee Member

Staff Liaisons

- Joe Prime, Maintenance and Golf Operations Manager
- Laurie Tobias, Administrative Clerk II

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2023 Accomplishments

- Mailed letters to 29 residents citywide in appreciation of their holiday displays in December 2022.
- Revised Beautification Award Application Brochure to expand the reach and opportunities of the award. Awarded six 2023 Beautification Committee Awards in recognition for properties that have significantly improved the visual appearance of the property and are aesthetically beneficial to the surrounding areas. The award recipients included five residential properties, and a first ever award to a commercial property.

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2023 Accomplishments

- Presided over Arbor Day 2023, providing 13 schools with prepared bags containing seed packets and other tree related materials to distribute to approximately 1000 second graders. Created a daily social media challenge during Arbor Day week to learn about Livermore trees.
- Within the last twelve months, the Landscape Section of Public Works has worked as a team with Karen Jefferson of the Beautification Committee and the Livermore-Amador Valley Garden Club to make improvements to the Rose Garden at Hansen Park.

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2023 Accomplishments

- Presided over a denied tree removal permit appeal. The Committee upheld Staff's decision to deny the permit.
- Reviewed and revised subcommittees based on current vacancies and new member interests. Committee discussed and provided input on the proposed Beautification Committee 'Duties and Responsibilities' as part of the City Council's ongoing Subcommittee on Advisory Bodies review.

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Thank you

City Council, Mayor and Staff

for your support of the

Beautification Committee.

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Beautification Committee 2023 Awards

November 27, 2023

Mark Goralka, Beautification Committee Vice-Chair

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Beautification Committee Awards

- Improve curb-side appeal
- Recognize drought tolerant landscape renovations
- Promote creativity and community pride
- Encourage resident participation in beautifying Livermore

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2

182 Barber Street



BEFORE



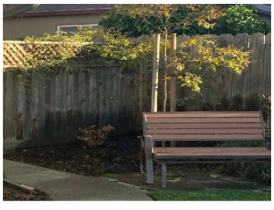
AFTER

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3

438 Swan Drive

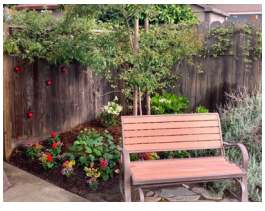






BEFORE







AFTER

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4

961 Dolores Street



BEFORE



AFTER

LIVERMORE CALIFORNIA

5

2021 Las Positas Court



BEFORE



AFTER

LIVERMORE CALIFORNIA

6

2349 High Castle Court



BEFORE



AFTER

LIVERMORE CALIFORNIA

7

824 Alden Lane



BEFORE



AFTER

LIVERMORE CALIFORNIA

8

Congratulations to the winners of the

Beautification Committee

2023 Awards!

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9

Livermore Wine Heritage District Presentation



1

Highlights and Accomplishments

- Admin & Operations
- Professional Development
- Quality Enhancement
- Advocacy & Community Relations
- Marketing & Brand Awareness



2


"It is clear the entire region is in a collaborative path to excellence."
- Doug Paulding, wine journalist, April 2019

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Municipal Code Amendment 23-001
Short-Term Rentals

City Council November 27, 2023

Steve Riley, Principal Planner

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Municipal Code Amendment 23-001- Short Term Rentals

- The Municipal Code Short-Term Rental regulations currently preclude the use of an Accessory Dwelling Unit (ADU) as a short-term rental, regardless of when it was permitted and built.
- State law expressly prohibits the establishment of short-term rentals in ADUs that were/are permitted on or after January 1, 2020. However, state law does give the City discretion to allow ADU's permitted prior to January 1, 2020, to be used for Short-Term Rentals.

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Municipal Code Amendment 23-001-Short Term Rentals

Staff recommends the City Council:

1. Adopt a resolution finding the impact of the project is exempt from the California Environmental Quality Act; and

2. Introduce an ordinance and waive the first reading, amending Chapter 5.90 Short-Term Rentals, Section 5.90.050 of the Livermore Municipal Code, allowing Accessory Dwelling Units with building permits issued prior to January 1, 2020, to be used as Short-Term Rentals.

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3



Policy Implementation 23-003
Altamont Landfill Open Space Grant for DC Ranch Conservation Easement

City Council November 27, 2023

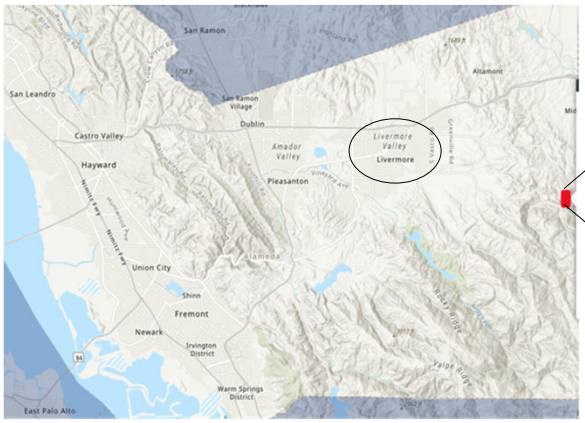
Jennifer Ackerman, Assistant Planner

LIVERMORE CALIFORNIA

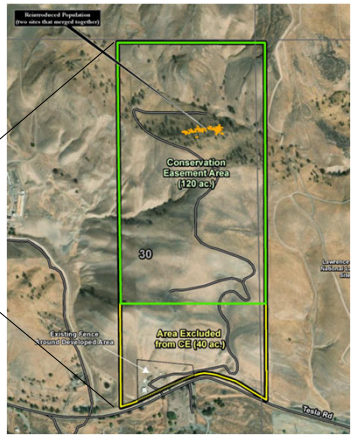
1

Policy Implementation 23-003

- 16980 Tesla Rd (unincorporated Alameda County) 10 miles west of Tracy and 11.5 miles east of Livermore



Alameda County Map



Site Map (DC Ranch)

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2

Policy Implementation 23-003

- Site Photos



California Tiger Salamander



Cattle Grazing on DC Ranch



Large-flowered Fiddleneck

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Policy Implementation 23-003

Staff recommends the City Council:

1. Adopt a resolution finding that the project is exempt under CEQA Section 15738 (no project); and

2. Accept the Altamont Landfill Open Space Committee's recommendation to expend funds to contribute toward the California Rangeland Trust's grant request in the amount of $145,810 for the purchase of a 120-acre conservation easement on a portion of the 160-acre DC Ranch in Eastern Alameda County

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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	11/14/2023	Las Positas College	Ribbon-cutting	Ribbon-cutting and tour of the new Academic Support Building for the #1 Community College in California and #4 in the Nation
Mayor Marchand	11/15/2023	City of Livermore	Veteran recognition	Attended and spoke at a Veterans Recognition and Quilts of Valor presentation at Las Positas College.
Mayor Marchand	11/15/2023	Chamber of Commerce	Business Mixer	Networking mixer at 5 Rivers Aviation.
Mayor Marchand	11/16/2023	City of Livermore	Community gathering	Attended a community gathering and spoke at the Sikh Gurdwara in Livermore with Supervisor David Haubert.
Mayor Marchand	11/18/2023	Chamber of Commerce	Ribbon-cutting	Attended the Ribbon-cutting for Teaspoon next to Town Centre Books.
Mayor Marchand	11/18/2023	City of Livermore	Anniversary	Attended the anniversary celebration for Shadow Puppet Brewery
Mayor Marchand	11/18/2023	Winegrowers Association	Grand opening	Attended the Grand Opening of JMC Cellars on Greenville Road, between 3 Steves and Christopher R.

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)
Council Member Branning	11/15/2023	Livermore-Amador Valley Water Management Agency (LAVWMA)	Board Meeting
Council Member Branning	11/21/2023	Livermore Downtown, Inc. (LDI)	Board Meeting
Council Member Branning	11/27/2023	Livermore Amador Valley Transit Authority (LAVTA)	Projects and Services Committee Meeting

Council Member	Date of Meeting or Event	Committee or Organization	Meeting or Event Type (ex. board meeting or ribbon cutting)
Council Member Carling	11/15/2023	StopWaste	Board meeting
Council Member Carling	11/15/2023	Livermore-Amador Valley Water Management Agency (LAVWMA)	Board meeting